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Part 1

HONORING OUR PROMISE TO ADDRESS COMPREHENSIVE TOXICS ACT OF 2021

FEBRUARY 22, 2022.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. TAKANO, from the Committee on Veterans' Affairs, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 3967]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 3967) to improve health care and benefits for veterans exposed to toxic substances, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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29–006

PURPOSE AND SUMMARY

H.R. 3967, the "Honoring Our Promise to Address Comprehensive Toxics Act of 2021" or "Honoring our PACT Act", was introduced by Representative Mark Takano, Chairman of the House Committee on Veterans' Affairs, on June 17, 2021. H.R. 3967 would increase access to health care for toxic exposed veterans as defined in the bill, create new procedures for the Department of Veterans Affairs (VA) to follow when establishing new presumptions for toxic exposure, improve data collection by VA, and presume exposures and create presumptions of service-connection for several cohorts of veterans, such as those exposed to airborne hazards/burn pits, radiation and Agent Orange. The bill also authorizes VA to conduct additional research studies and requires VA to develop an outreach program and standardized training on toxic exposure. H.R. 3967 incorporates, in whole or in part, text of the following 15 bills: H.R. 2368 introduced by Representative Elaine Luria of Virginia on April 5, 2021; H.R. 2372 introduced by Representative Raul Ruiz of California on April 5, 2021; H.R. 2436 introduced by Elissa Slotkin of Michigan on April 8, 2021; H.R. 2607 introduced by Representative David Trone of Maryland on April 15, 2021; H.R. 1355 introduced by Representative Stephen Lynch of Massachusetts on February 25, 2021; H.R. 1585 introduced by Representative Grace Meng of New York on March 3, 2021; H.R. 1972 introduced by Representative Josh Harder of California on March 17, 2021; H.R. 2127 introduced by Representative Mike Bost of Illinois on March 23, 2021; H.R. 2268 introduced by Representative Bruce Westerman of Arkansas on March 26, 2021; H.R. 2269 introduced by Representative Bruce Westerman of Arkansas on March 26, 2021; H.R. 2580 introduced by Representative Jahana Hayes of Connecticut on April 15, 2021; H.R. 2569 introduced by Representative Cartwright of Pennsylvania on April 15, 2021; H.R. 2742 introduced by Representative Chris Pappas of New Hampshire on April 21, 2021; H.R. 2825 introduced by Representative Tonko of New York on April 23, 2021; and H.R. 3368 introduced by Representative Michael San Nicolas of Guam on May 20, 2021.

BACKGROUND AND NEED FOR LEGISLATION

Whether it is airborne hazards from burn pits and other sources while serving abroad, contaminated water at military bases from toxins such as per- and polyfluoroalkyl substances (PFAS), or radiation from atomic testing and cleanups—each passing day more and more veterans speak out about their exposure to environmental hazards and toxic substances during military service.

As Rose Marie Martinez, Sc.D., from the National Academies of Science, Engineering, and Medicine explained, "each conflict seems

to have a particular exposure that is considered the hallmark of service in that era." For Vietnam, it was the herbicide defoliants, specifically Agent Orange. For the 1990–91 Persian Gulf War, it was the smoke from burning oil well fires. Finally, for post-9/11 operations, it was the use of burn pits for open air waste burning. Toxic exposure from these substances can lead to a myriad of complicated health effects from cancers and respiratory infections to unexplained chronic-multi symptom illnesses and birth defects.

In general, VA presumes that certain disabilities were caused by military service because of the unique circumstances of a specific veteran's deployment or location of service. Once there is enough scientific evidence, certain illnesses and conditions tied to a specific geographic region or toxic exposure work through VA's process and are eventually added to the presumption list. If a presumed condition is diagnosed in a veteran in a certain group, they can then be awarded disability compensation—and access to critical VA care and benefits for their service-connected disability. However, VA does not always take timely action to identify and implement new presumptions. For example, a National Academies of Sciences, Engineering, and Medicine (NASEM) 2016 report on Agent Orange indicated there was a sufficient association with exposure to Agent Orange and hypertension. This condition has yet to be added to the list of presumptive disabilities by VA.

H.R. 3967 seeks to streamline VA's current process to provide faster decisions and transparency for veterans and other stakeholders. The new process outlines timeframes for action and creates a framework that the Secretary must follow when reviewing possible toxic exposures for presumption of service-connection. As it stands, the burden of proof in many instances rests on each individual veteran—forcing them to provide evidence that they were exposed to a toxic substance during their service and have an illness as a result. Over 230,000 veterans have joined VA's Airborne Hazards and Open Burn Pit Registry, which documents self-reported health impacts, but because of VA's process, some veterans wonder whether it's worth adding their name at all. This leaves many veterans—regardless of the severity of their illness—without the care and services they need to overcome illnesses resulting from their toxic exposure.

In the past, Congress has granted special eligibility for health care to certain veterans possibly exposed to toxic substances and environmental hazards under special treatment authorities, but this does not cover all toxic exposed veterans. For instance, Congress addressed the health concerns of Vietnam-era veterans in 1981, with the passage of the Veterans' Health Care, Training, and Small Business Loan Act (P.L. 97–72), but many veterans who served and were exposed were not covered. Additional action followed to include the Blue Water Navy Vietnam Veterans Act, passed in the 116th Congress, which was a massive step to ensure those remaining veterans exposed to Agent Orange during their service are cared for, but this took more than 40 years. While this was a historic win for impacted veterans, it addresses only one cohort of veterans exposed to toxic substances.

H.R. 3967, the Honoring Our PACT Act of 2021, seeks to address the remaining groups of toxic exposed veterans still waiting for recognition by VA, as well as future generations. It recognizes toxic

exposure as a cost of war. The bill would establish expanded health care eligibility to all toxic exposed veterans based on participation in a toxic exposure risk activity as defined in the bill. It provides coverage for veterans exposed to burn pits and airborne hazards while deployed beyond the five-year limit currently in place for those returning from combat theaters. The bill would also create presumptive service-connection for a list of illnesses for veterans potentially exposed to airborne hazards while conducting military operations or while stationed at specific overseas locations. The bill also modifies existing presumptions for radiation and Agent Orange exposure by expanding the list of locations and dates for which exposure is conceded and by adding additional diseases to the list of presumptive disabilities, such as hypertension for herbicide exposed veterans.

The bill also addresses another obstacle for toxic exposed veterans, which is the lack of scientific evidence available to support new presumptions. The Honoring Our PACT Act of 2021 requests several new studies, while also authorizing VA to commission necessary research to support decision-making on current and emerging toxic exposures.

H.R. 3967 recognizes toxic exposure as a cost of war and not only restores veterans' trust in VA, but also reassures future generations that should they answer the call to serve, VA will always be there to care for them.

TITLE I—EXPANSION OF HEALTH CARE ELIGIBILITY FOR TOXIC EXPOSED VETERANS

Veterans speaking out about exposure to environmental hazards and other toxic substances during military service and resulting health conditions need help now, not later. Over 230,000 veterans have joined VA's Airborne Hazards and Open Burn Pit Registry, which documents self-reported health impacts. Health impacts vary from unexplained chronic multi-symptom illnesses to cancers, birth defects, infertility, and respiratory conditions.

Title I of the Honoring our PACT Act authorizes access to health care for ALL toxic-exposed veterans. This is to ensure no veteran goes without the care and benefits they need to improve their quality of life. Section 103 of Title I also specifically provides access for the approximately 3.5 million veterans who may have been exposed to burn pits and airborne hazards while serving overseas. General eligibility is based on participation in a toxic exposure risk activity, which includes activities identified in the Department of Defense's (DoD) new exposure record keeping system, the Individual Longitudinal Exposure Record (ILER), as well as activities identified by the VA Secretary. The ILER is a web-based application that provides DoD and VA the ability to link an individual to exposures to improve the efficiency, effectiveness, and quality of health care. ILER will create a complete record of a service member's occupational and environmental health exposures over the course of the service member's career by linking individuals to known exposure events and incidents and compiling the exposure history to distill and report the relevant data and information (i.e. handling, diagnosis, action thresholds, etc.). ILER will provide DoD and VA clinicians, claims adjudicators, and benefits advisors the actionable

data required to improve the care provided to service members and veterans.

To ensure VA has adequate time to assess resourcing needs and establish plans to address what will likely be an increase in healthcare enrollment, the bill provides an 18-month implementation period and requires the Secretary to conduct a resource assessment and submit a report to Congress within 180 days of enactment of the bill. This provision is taken from Representative Luria's "COVENANT Act". By providing the agency with time to assess the impact of this authorization, we can ensure minimal disruption to current care and services to veterans already enrolled and using VA's healthcare system. While a maximum period of 18 months is allowed before the healthcare access provisions become effective, it is this Committee's intent that the VA Secretary will effectuate healthcare access for impacted veterans as quickly as possible. The Secretary must also provide the committees of jurisdiction a report every 90 days on where the agency is with implementing these sections of the bill.

TITLE II—TOXIC EXPOSURE PRESUMPTION PROCESS

Title II provides for a new decision-making framework for VA to establish new presumptions for service-connection based on toxic exposures. The new decision process includes a Formal Advisory Committee, an Independent Science Review Board, and a Working Group. An explanation of the entities and activities involved in the decision process outlined in Title II is provided below:

Establishes a *Formal Advisory Committee* made up of nine members, with five appointed by the Secretary and four appointed by Congress. The Committee reviews data on potential toxic exposures and determines whether to commission additional research, advance a nomination to the Science Review Board, or recommend Secretarial action to expand a presumption.

Establishes an *Independent Science Review Board* with members and terms determined by the Secretary. Members must be selected from the general public from among individuals who are distinguished in the fields of medicine, biological sciences, or health administration. The Board reviews available research and determines (1) likelihood of association, and (2) impact of service. The Board prepares reports and submits to the Working Group, Committee, and Congress.

Codifies the *Toxic Exposure Working Group*, which is comprised of VA employees. The Working Group evaluates the Board's conclusions and makes recommendations to the Secretary to establish a presumption-of-service-connection.

Requires the Secretary to respond to the Working Group's recommendations within 60 days and determine whether to establish or modify a presumption. The Secretary's decision, reasoning, and sources for decision must be publicly reported. When establishing a presumption, the Secretary would be required to issue final regulations within 180 days of issuing proposed regulations. The above provisions are taken from Representative Trone's "FASTER Presumptions Act".

Section 203 addresses reevaluation of claims for compensation involving presumptions of service-connection. This section requires that whenever a new presumption of service-connection is estab-

lished, the Secretary would be required to conduct outreach to veterans who previously filed claims and were denied for a condition that falls under the new presumption. For previously denied claims that are approved, the Secretary must provide an effective date as though the presumption was in effect on the date of the previously denied claim. This section would apply to the newly established presumptions included in Title IV of the bill.

It is not this Committee's intent to require automatic re-adjudication of previously denied claims. However, this bill does require that if a veteran wishes to reapply for a previously denied benefit based on a newly established presumption, VA will assign the earliest effective date possible, as though the presumption was in place at the time of the previously denied claim.

TITLE III—IMPROVING THE ESTABLISHMENT OF SERVICE CONNECTION FOR TOXIC EXPOSED VETERANS

Title III requires the Secretary to consider the ILER of a veteran when adjudicating a toxic exposure claim. Provisions of Title III are provided below:

Establishes a concession of exposure for veterans exposed to airborne hazards and burn pits. This concession of exposure to certain substances is for the purpose of establishing a direct service-connection in a disability compensation claim. Eligibility is based on locations and dates of service. This provision is taken from Representative Luria's bill, the "COVENANT Act".

Requires that VA provide an exam and medical opinion related to toxic exposure claims where the veteran has evidence of a disability and participation in a toxic exposure risk activity. This provision is taken from Representative Slotkin's bill, the "Veterans Burn Pits Exposure Recognition Act of 2021".

TITLE IV—PRESUMPTIONS OF SERVICE-CONNECTION

Title IV of the bill includes a presumption of service-connection for the several cohorts of veterans previously excluded, and who have been fighting for years to be recognized as toxic-exposed veterans.

Section 406 of Title IV creates a presumption of service-connection for 23 conditions which include respiratory conditions and cancers for the approximately 3.5 million veterans who were exposed to burn pits and other airborne hazards. This provision is taken from Representative Ruiz's "Presumptive Benefits for War Fighters Exposed to Burn Pits and Other Toxins Act", and Representative Luria's "COVENANT Act".

Both DoD and VA acknowledge that service members who were exposed to airborne hazards, such as open burn pit smoke, while serving may be at risk for short- and long-term health issues. After deployment to locations with open burn pits and other pollution sources, service members have returned with a range of mild to serious respiratory illnesses. VA notes that in Iraq, Afghanistan, and other areas of the Southwest Asia theater of military operations, open-air combustion of trash and other waste in burn pits was a common practice. The DoD closed out most burn pits and is planning to close the remainder; however, its use has left a lasting impact on the service members who were exposed to them. Whether noted by the Environmental Protection Agency or other govern-

ment entities, it is widely accepted that the burning of waste and garbage can have a significantly negative impact on not just the environment but human health. This is acknowledged though the laws that prevent burning of waste and the regulations that surround exposure and handling of toxic substances.

As many as 3.5 million service members were exposed to toxic substances through DoD's use of burn pits. At least 230 pits were utilized in Iraq and Afghanistan, with the largest of these burn pits located at the Balad Air Base in Iraq. During its operation, it comprised 10 acres of burning trash, 24 hours a day, 365 days a year. VA's Airborne Hazards and Open Burn Pit Registry website shows that more than 230,000 veterans and service members have submitted their information to the registry, many of which are suffering and dying from illnesses such as lung diseases, cancers, and other respiratory illnesses. VA established this registry in 2014, to collect data on exposed veterans and help VA better understand the potential health effects of exposure to airborne hazards during military service.

To support a claim for benefits, per VA's website and current law, a veteran must submit evidence of (1) a current physical or mental disability from a medical professional or layperson (someone who is not a trained professional), (2) an event, injury, or disease that happened during active-duty service (which is the case for exposure to airborne hazards), and (3) a link, usually provided by a medical professional, between the veteran's current disability and the event, injury, or disease that happened during service. The onus is on the veteran in most cases to prove their case of exposure, unless there is a presumption in place. Presumptions can establish that anyone who served in a specific location was more than likely exposed to a specific toxic substance and can also establish a link between that exposure and certain disabilities. The application of a presumption removes the burden from the veteran to submit evidence to establish this link. Section 406 removes this burden from veterans for the 23 conditions related to airborne hazards. VA has already initiated action to recognize three of the conditions as presumptive to particulate matter (PM) exposure while serving abroad: asthma, rhinitis, and sinusitis.

VA reviewed several studies conducted by NASEM that examined the possible contribution of air pollution to adverse health effects among U.S. military personnel who served in the Middle East to include their dependents. The National Research Council (NRC) of NASEM independently reviewed DoD's final report in "Review of the Department of Defense Enhanced Particulate Matter Surveillance Program (EPMSP) Report" in 2010. The NRC committee highlighted that the EPMSP was one of the first large-scale efforts to characterize PM exposure in deployed military personnel. In VA's interim final rule[1] on PM presumptions that was published on August 5, 2021, VA noted that:

> . . . the NRC committee found that the EPMSP results clearly documented that deployed Service Members deployed in the Middle East "are exposed to high concentra-

[1] https://www.federalregister.gov/documents/2021/08/05/2021-16693/presumptive-service-connection-for-respiratory-conditions-due-to-exposure-to-particulate-matter#:~:text=The%20Department%20of%20Veterans%20Affairs%20%28VA%29%20is%20issuing,association%20with%20presumed%20exposures%20to%20fine%2C%20particulate%20matter.

> tions of PM and that the particle composition varies considerably over time and space." Further, the NRC Report committee concluded that "it is indeed plausible that exposure to ambient pollution in the Middle East theater is associated with adverse health outcomes." The health outcomes noted may occur both during service (acute) as well as manifest years after exposure (chronic).

The Committee's review of available scientific evidence and reports, including VA's own assessments related to PM, supports recognition of the 23 respiratory conditions and cancers included in this section of the bill as a starting point for this group of toxic-exposed veterans.

Section 404 of Title IV creates a presumption of service-connection for approximately 490,000 Agent Orange-exposed veterans suffering from hypertension and Monoclonal gammopathy of undetermined significance (MGUS). This provision is taken from Representative Harder's bill, the "Fair Care for Vietnam Veterans Act of 2021". A NASEM report on Agent Orange, published on November 15, 2018, reported there was "sufficient evidence of an association" between Hypertension and Agent Orange exposure. This places hypertension in the highest category of an association; however, VA failed to add these conditions to the list of presumptive conditions associated with Agent Orange. Vietnam veterans have waited decades for scientific support and now have that, but they are still waiting for the benefits they deserve due to VA's unwillingness to take decisive action. Section 404 of Title IV seeks to remedy this by adding these conditions to the presumptive list through legislation.

Section 401 of Title IV provides coverage for the approximately 6,000 radiation-exposed veterans who were assigned to clean nuclear testing sites in Enewetak Atoll in the Marshall Islands during the late 1970s. This provision is taken from Representative Meng's bill, the "Mark Takai Atomic Veterans Healthcare Parity Act of 2021." Enewetak Atoll was the site of more than 40 nuclear tests between 1946 and 1958. The service members who participated in its nuclear cleanup between 1977 and 1980 suffer from high rates of cancers due to their exposure to radiation and nuclear waste but are currently unable to receive the same treatments and service-related disability presumptions that other "radiation-exposed veterans" receive.

As said by Representative Meng, "These veterans served our nation with honor and distinction. It is long past time that we address the failure of our system to help them." Representative Meng's bill has the support of over 11 different veteran advocacy groups. The National Association of Atomic Veterans National Commander Keith Kiefer in a statement of support noted that "Despite contamination of the islands with Plutonium, Strontium, Cesium and other toxic materials from years of testing 43 atomic bombs, the veterans did not have proper PPG (Personal Protective Gear) or monitoring during removal and transportation of approximately 110,000 cubic yards contaminated soil, these bureaucracies continue to deny any exposure and proper care associated with that." He also noted that of all the veterans who participated in this project, they have found about only 10 percent alive with most of the survivors having cancer(s) and at least one suffers with six

unique cancers. With many of these veterans having already passed, Congress cannot continue to delay benefits that would improve the quality of life for this group of toxic-exposed veterans.

Section 402 of Title IV provides coverage for the approximately 1,600 radiation-exposed veterans who responded to the 1966 nuclear accident in Palomares, Spain. This provision is taken from Representative Hayes's bill the "Palomares Veterans Act of 2021". In January 1966, a U.S. Air Force aircraft transporting four nuclear weapons and a refueling tanker aircraft collided over Palomares, Spain, while attempting inflight refueling. The four weapons were released in the collision, and two of the weapons were destroyed upon impact from the detonation of conventional explosives present in the weapons. The damage to these weapons released plutonium, highly enriched uranium, and certain other radioactive materials, but did not involve a nuclear detonation. Many of the airmen who responded to the accident report being given little to no protective clothing and were not instructed on the potential consequences of exposure to such dangerous substances. They were ordered to clear contaminated crops, shovel tainted soil into burn pits, and consume the local water and food—placing them in direct contact with large amounts of plutonium. Based on declassified reports from the Atomic Energy Commission, there were more than 3 billion micrograms of plutonium released into the air as a result of the accident. This level of exposure raises major concerns of toxic exposure in Palomares veterans.

Veterans who participated in the cleanup are speaking out about health conditions such as cancer that they feel is directly due to their exposure to radioactive materials during the cleanup. Many of these veterans have filed disability claims with VA and received denials as VA does not include the Palomares cleanup incident as a "radiation risk activity" within its current regulations. This is due in main part to VA's reliance on questionable dosing estimates providing by the Air Force. A physicist, Frank von Hippel, challenged the Air Force's dosing estimate methods in a publication titled *History of Dose, Risk, and Compensation Assessments for US Veterans of the 1966 Plutonium Cleanup in Palomares, Spain*[2] in December 2019. The U.S. Air Force has continued to examine radiological exposures associated with this incident and issued a recent report, U.S. Air Force Safety Center, *Topical Issues for Assessment of Dose to Palomares Accident Recovery Workers (1966)*,[3] on July 7, 2020.

Air Force dosing estimates have also been challenged by veterans and advocacy groups in a class action suit led by one participant, Victor Skaar. In Skaar v. Wilkie,[4] the Court of Appeals for Veterans Claims issued a decision in December 2020, that found that VA had not fulfilled its legal responsibility to determine whether the method it uses to assess Palomares veterans' radiation exposure is scientifically sound. Victor Skaar, the lead appellant, ar-

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[2] https://journals.lww.com/health-physics/Fulltext/2019/12000/History_of_Dose,_Risk,_and_Compensation.13.aspx.

[3] https://urldefense.proofpoint.com/v2/url?u=https-3A_www.safety.af.mil_Portals_71_documents_Weapons_Palomares-2520Dose-2520Assessment-2520Rpt-25207-2520Jul-25202020.pdf-3Fver-3D2020-2D08-2D05-2D113936-2D200&d=DwMFAg&c=L93KkjKsAC98uTvC4KvQDdTDRzAeWDDRmG6S3YXllH0&r=vyDR8HjB88IX8YJD94iTOsWUsbQNJXaiQpXgvLmUlAY&m=Dsawq2jZCKeEgnm8LgEFH4n1exySABZ-EdzXINb8ypI&s=n5fJ3X2t6lFvYewy_JCmx49Z668LsUVTCq0sH1MF3BA&e=.

[4] http://uscourts.cavc.gov/documents/SkaarVB_17-2574%20(12-17-20).pdf.

gued that VA unjustifiably excluded Palomares from the list of "radiation-risk activities," and used unsound scientific methodologies to deny his disability benefits claim as well as many others. Section 402 of Title IV seeks to remedy these errors and establish a presumption for the remaining Palomares veterans and their dependents.

Section 403 of Title IV provides coverage for Agent Orange-exposed veterans who served in Thailand, Laos, and Cambodia. This provision is taken from Representative Cartwright's bill the "Veterans Agent Orange Exposure Equity Act". VA currently requires veterans with service in Thailand, Laos, and Cambodia to carry the burden of proving they were exposed to Agent Orange during the Vietnam War. VA currently reviews service-connected disability claims from this group of veterans on a case-by-case basis and adds additional restrictions on where and in what military occupation a veteran must have served in Thailand to receive benefits. VA's current process arbitrarily disqualifies many veterans from receiving the benefits they have earned and need.

Veterans should not have to bear the burden of proving their case when VA and DoD have evidence that supports exposure to herbicides for veterans in Thailand, Laos, and Cambodia. The DoD and VA have acknowledged that Agent Orange was stored, tested, and used outside of the Republic of Vietnam, and included these locations in a public facing list on VA's website. Section 403 of Title IV uses the dates and locations identified by DoD to provide a presumption of exposure for this cohort of veterans.

Also included in this section is coverage for veterans who served in Guam, American Samoa, and Johnston Island. The number of impacted veterans is difficult to gauge; however, based on counts from advocacy groups, the number is approximately 50,000. A Government Accountability Office (GAO) report released in November 2018, titled *Agent Orange: Action Needed to Improve Accuracy and Communication of Information on Testing and Storage Locations* [5] *(GAO–19–24)*, reported that the DoD record keeping on at least one vessel carrying Agent Orange ported in Guam was deficient with many of the records lost or destroyed, and the records that do exist do not indicate what cargo was unloaded or remained on board. Further, identification of Agent Orange testing and storage sites outside of Vietnam was deficient, and some of the commercial herbicides that VA conceded were used in Guam contained 2,4–D; 2,4,5–T, or both. The provisions of the "Agent Orange Act of 1991," apply to all herbicides containing 2,4–D or dioxin used in support of combat operations in Vietnam, and can therefore be inclusive of those used in Guam.

Using VA's legal standard, the Veterans Legal Services Clinic of the Jerome N. Frank Legal Services Organization at the Yale Law school examined widely available evidence and determined that it is "as likely as not" that service members who served on Guam were exposed to toxic herbicides containing dioxin. This comprehensive study, titled *NVLSP And VLSC White Paper Confirming That Veterans Who Served in Guam from 1958–1980 Were Likely Exposed to Dioxin-Containing Herbicide Agents Including Agent Or-*

[5] https://www.gao.gov/assets/gao-19-24.pdf.

ange,[6] issued in May 2020, and updated on February 12, 2021, "includes official government documents describing widespread practices of herbicide spraying, mishandling, and improper disposal prior to the enactment of federal hazardous waste regulations enacted in 1976." Over the course of three decades, soil testing conducted by the U.S. Environmental Protection Agency and the Guam Environmental Protection Agency have revealed herbicide and dioxin pollution in locations throughout the island where veterans have noted toxic chemicals were sprayed. Very recent soil samples tested in 2018, and repeated in 2019, detected 2,4–D and 2,4,5–T as well as the toxic TCDD byproduct.

As with the other cohorts of veterans addressed in this title, reasonable doubt should be given to these veterans who continue to report about their exposures to toxic substances during service. This section intends to accomplish that by providing a presumption of Agent Orange exposure for veterans with qualifying service in Guam, American Samoa, and Johnston Island.

Section 405 of Title IV seeks to makes improvements to the Gulf War Illness presumption process by extending VA's authority to grant benefits for Gulf War Illness and eliminating the sunset date currently in place for veteran eligibility.

TITLE V—RESEARCH MATTERS

Title V designates VA as the coordinating authority for all research activities conducted by the federal government on the health consequences of military toxic exposures and requires VA to develop a Toxic Exposure Research Strategic Plan to ensure that the government's research activities related to military toxic exposure are collaborative, transparent, and highly coordinated. VA must provide a report to Congress within one year of the date of enactment. Additional elements of Title V delineate the following:

Requires collection of clinical data for use in toxic exposure research. This provision is taken from Representative Bost's "Toxic Exposure in the American Military Act".

Requires three separate studies on veterans who served in Southwest Asia and other locations, covering mortality, toxicology, and epidemiology. This provision is taken from Representative Trone's "FASTER Presumptions Act".

Requires an epidemiological study on the health trends of all Post 9/11 veterans, and a study on the incidence of cancers among veterans.

Directs VA to conduct a study on the feasibility of providing Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) benefits to dependents of veterans for healthcare costs related to toxic exposures experienced on DoD-maintained facilities.

TITLE VI—IMPROVEMENT OF RESOURCES AND TRAINING REGARDING TOXIC EXPOSED VETERANS

Title VI has the following provisions regarding resource allocation and training opportunities:

Requires VA to publish a list of the benefits and healthcare resources available to veterans and survivors related to toxic expo-

[6] https://law.yale.edu/sites/default/files/area/clinic/2021.02.11_-_nvlsp_white_paper_-_clean.pdf.

sure. This provision is taken from Representative Bost's "Toxic Exposure in the American Military Act".

Directs VA to incorporate a toxic exposure questionnaire during primary care appointments. This provision is taken from Representative Bost's "Toxic Exposure in the American Military Act".

Requires improved standardized training for VA claims processors, as well as health care personnel conducting examinations to assist in the accurate adjudication of toxic exposure claims. This provision is taken from Representative Luria's "COVENANT Act" and Representative Trone's "FASTER Presumptions Act".

TITLE VII—REGISTRIES, RECORDS, AND OTHER MATTERS

Title VII includes the following provisions related to record keeping:

Requires VA to establish a Fort McClellan Health Registry and provide the option of a health examination and consultation to any veteran who was stationed at Fort McClellan. This Title also requires VA to do appropriate outreach to veterans listed in the registry about options, new research, and the consequences of toxic substance exposure. This provision is taken from Representative Tonko's "Fort McClellan Health Registry Act".

Directs VA to establish a registry for current or past members of the Armed Forces who may have been exposed to PFAS due to the environmental release of aqueous film-forming foam at a military installation or other DoD location. This provision is taken from Representative Pappas's "PFAS Registry Act of 2021".

Requires DoD to review the ILER periodically to determine whether additional exposures should be added, based on geography, occupation, and timeframe of service.

Requires an independent study on the ILER to assess the quality of location and exposure data and determine whether a member of the Armed Forces can be reasonably assured that any toxic exposure they experienced during service will be reflected in their records.

Requires the Secretary of Defense and the Secretary of Veterans Affairs to allow for service members and veterans to correct their military records as they pertain to toxic exposures.

HEARINGS

On May 5, 2021, the full Committee conducted a legislative hearing on various bills introduced during the 117th Congress. Many of these bills were incorporated into H.R. 3967. The following witnesses testified: The Honorable Mike Bost, U.S. House of Representatives, 12th Congressional District of Illinois; The Honorable Elaine Luria, U.S. House of Representatives, 2nd Congressional District of Virginia; The Honorable Troy Nehls, U.S. House of Representatives, 22nd Congressional District of Texas; The Honorable Chris Pappas, U.S. House of Representatives, 1st Congressional District of New Hampshire; The Honorable Elissa Slotkin, U.S. House of Representatives, 8th Congressional District of Michigan; The Honorable Raul Ruiz, U.S. House of Representatives, 36th Congressional District of California; The Honorable Bruce Westerman, U.S. House of Representatives, 4th Congressional District of Arkansas; The Honorable Stephen Lynch, U.S. House of

Representatives, 8th Congressional District of Massachusetts; The Honorable Lee Zeldin, U.S. House of Representatives, 1st Congressional District of New York; The Honorable Paul Tonko, U.S. House of Representatives, 20th Congressional District of New York; The Honorable Matt Cartwright, U.S. House of Representatives, 8th Congressional District of Pennsylvania; The Honorable Jahana Hayes, U.S. House of Representatives, 5th Congressional District of Connecticut; The Honorable Gregory Murphy, U.S. House of Representatives, 3rd Congressional District of North Carolina; Mr. Ronald Burke, Deputy Under Secretary for Policy and Oversight, Veterans Benefits Administration; accompanied by Ms. Beth Murphy, Executive Director for Compensation Service, Veterans Benefits Administration, and Dr. Patricia Hastings, Chief Consultant, Post Deployment Health Service, Veterans Health Administration; Dr. Karl Kelsey, Professor of Epidemiology, Pathology and Laboratory Medicine, Brown University, National Academies of Sciences, Engineering, and Medicine; Aleksandr Morosky, Government Affairs Specialist, Wounded Warrior Project; Travis Horr, Director, Government Affairs, Iraq and Afghanistan Veterans of America; Shane L. Liermann, Deputy National Legislative Director for Benefits, Disabled American Veterans; Kristina Keenan, Associate Director, Disability Assistance and Memorial Affairs, Veterans of Foreign Wars; and Jim Price, Veteran and Advocate.

SUBCOMMITTEE CONSIDERATION

H.R. 3967 was not considered before the Subcommittee on Disability Assistance and Memorial Affairs.

COMMITTEE CONSIDERATION

On June 24, 2021, the full Committee met in an open markup session, a quorum being present, to consider H.R. 3967. An amendment in the nature of a substitute was offered by Representative Mike Bost of Illinois. The amendment was not agreed to in a recorded vote. The Committee ordered that H.R. 3967 as introduced be ordered favorably reported to the House of Representatives.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report the legislation and amendments thereto. Representative Bost offered an Amendment in the Nature of a Substitute. The results of the record vote on an amendment or motion to transmit, together with the names of those voting for and against, are printed below.

Veterans' Affairs Committee record vote No. 2

Amendment by Representative Bost to H.R. 3967 in the Nature of a Substitute, replacing the text of the bill with a feasibility and advisability study of the underlying bill as introduced. Defeated: 14–10. The vote was as follows:

Majority Members	Vote	Minority Members	Vote
Mr. Takano	Nay	Mr. Bost	Aye
Ms. Brownley	Nay	Ms. Radewagen	.....

Majority Members	Vote	Minority Members	Vote
Mr. Lamb	Nay	Mr. Bergman	Aye
Mr. Levin	Nay	Mr. Banks	Aye
Mr. Pappas		Mr. Roy	
Ms. Luria	Nay	Mr. Murphy	Aye
Mr. Mrvan	Nay	Mr. Mann	Aye
Mr. Sablan		Mr. Moore	Aye
Ms. Underwood	Nay	Ms. Mace	Aye
Mr. Allred	Nay	Mr. Cawthorn	
Ms. Frankel	Nay	Mr. Nehls	Aye
Mr. Brown	Nay	Mr. Rosendale	Aye
Ms. Slotkin	Nay	Ms. Miller-Meeks	Aye
Mr. Trone	Nay		
Ms. Kaptur			
Mr. Ruiz	Nay		
Mr. Gallego	Nay		

Veterans' Affairs Committee record vote No. 3

Representative Luria requested a record vote on the motion to transmit the bill to the House of Representative. Affirmed: 14–11. The vote was as follows:

Majority Members	Vote	Minority Members	Vote
Mr. Takano	Aye	Mr. Bost	Nay
Ms. Brownley		Ms. Radewagen	
Mr. Lamb	Aye	Mr. Bergman	
Mr. Levin		Mr. Banks	Nay
Mr. Pappas	Aye	Mr. Roy	
Ms. Luria		Mr. Murphy	Nay
Mr. Mrvan	Aye	Mr. Mann	
Mr. Sablan		Mr. Moore	Nay
Ms. Underwood		Ms. Mace	
Mr. Allred		Mr. Cawthorn	Nay
Ms. Frankel	Aye	Mr. Nehls	
Mr. Brown		Mr. Rosendale	Nay
Ms. Slotkin	Aye	Ms. Miller-Meeks	Nay
Mr. Trone			
Ms. Kaptur			
Mr. Ruiz			
Mr. Gallego	Aye		

SECTION-BY-SECTION DESCRIPTION

Section 1: Short Title; References to Title 38, United States Code; Table of Contents

This section includes a table of contents and specifies that this Act may be cited as the "Honoring our Promise to Address Comprehensive Toxics Act of 2021" or the "Honoring our PACT Act of 2021".

TITLE I—EXPANSION OF HEALTH CARE FOR TOXIC EXPOSED VETERANS

Section 101: Short title

Section 101 would establish the "Conceding Our Veterans' Exposures Now and Necessitating Training Act" or the "COVENANT Act" as the short title of Title I of the Act.

Section 102: Definitions relating to toxic exposed veterans

Section 102(a) amends section 1710(a)(2)(F) to clarify the section applies to "toxic exposed veterans".

Section 102(b) defines "toxic exposure" and defines "toxic exposed veterans" as a veteran described in section 1710(e)(1) of title 38 United States Code. This section includes Vietnam-era herbicide-exposed veterans, radiation-exposed veterans, veterans with requisite service during the Persian Gulf War, certain veterans who served on active duty in a theater of combat operations, Shipboard Hazard and Defense (SHAD) testing participants, certain Camp Lejeune veterans, and any veterans who participated in a toxic exposure risk activity.

Section 102(c) defines "toxic exposure risk activity" as any risk of exposure recorded in the Individual Longitudinal Exposure Record (ILER), which documents exposures to toxic substances or that the Secretary determines qualifies for purposes of this subsection. Additionally, the Secretary of VA has the authority to make their own determination that a veteran participated in a toxic exposure risk activity when the ILER does not contain the appropriate data.

Section 103: Expansion of health care for specific categories of toxic exposed veterans

Section 103(a) authorizes access to health care for all toxic-exposed veterans, inclusive of those exposed to burn pits and airborne hazards. Eligibility is based on participation in a toxic exposure risk activity, which includes activities identified in the ILER as well as activities identified by the VA Secretary. This covers any illness a covered veteran wishes to seek care for and gives Priority Group 6 level access which covers the cost of care.

Section 103(b) requires the Secretary to complete a resource assessment and report on the Department's ability to implement this section within 180 days after enactment and every 90 days thereafter until the effective date found in section 103(c) is effective.

Section 103(c) provides an effective date for the amendments made in this section that would be either the date the Secretary certifies through a report to Congress that the Department has the resources and personnel necessary to implement the amendment or the date that is 18 months after enactment of the Act, whichever is earlier.

TITLE II—TOXIC EXPOSURE PRESUMPTION PROCESS

Section 201: Short Title

Section 201 would establish the "Fairly Assessing Service-related Toxic Exposure Residuals Presumptions Act" or the "FASTER Presumptions Act" as the short title of Title II of the Act.

Section 202: Improvements to ability of Department of Veterans Affairs to establish presumptions of service-connection based on toxic exposure

Section 202(a) provides new procedures that VA must follow to establish new presumptions for service-connection based on toxic exposures. The new review process includes a Formal Advisory Committee, an Independent Science Review Board, and a Working Group.

This section defines the term "illness" as used in this section as a disease or other condition affecting the health of an individual.

This section establishes a *Formal Advisory Committee on Toxic Exposure* made up of nine members, with five appointed by the Secretary and four appointed by Congress in a bipartisan manner. Each member will serve a two-year term.

The Committee reviews data on potential toxic exposures and determines whether to commission additional research, advance a nomination to the Science Review Board, or recommend Secretarial action to expand a presumption. The Committee would fall under the Federal Advisory Committee Act except this would be a permanent committee not subject to the two-year renewal requirement. This section also requires annual reports to the Committees on Veterans' Affairs of the Senate and House of Representatives by the Formal Advisory Committee.

This section establishes a *Science Review Board* with members and terms determined by the Secretary in collaboration with the National Academies of Sciences, Engineering and Medicine. Members must be selected from the general public from among individuals who are distinguished in the fields of medicine, biological sciences, or health administration. Members cannot concurrently serve on the Committee. The Board would evaluate research nominated by the Committee and determines the strength of association between toxic exposure and an illness. The Board reviews available research and determines (1) likelihood of association, and (2) impact of service. The Board prepares reports and submits to the VA Working Group, Committee and Congress.

This section establishes that if evidence for association is either "sufficient" or "equipoise and above" (i.e. more likely than not), then the Board shall calculate the probability of association for an individual. If the evidence for association is "below equipoise," then the Board may choose to gather additional data or request additional research.

This section establishes a *Working Group* comprised of VA employees. The Working Group evaluates the Board's conclusions on toxic exposure cases and makes recommendations to the Secretary regarding whether to establish a presumption-of-service-connection. A report outlining the recommendations made by the Working Group would also be submitted to Congress.

This section requires the Secretary to respond to any recommendations made by the Working Group within 60 days. If the Secretary proposes new presumptions in response, the Secretary must then issue final regulations within 180 days of the proposed regulation. Should the Secretary decide against adding a new presumption, VA must publish this decision in the Federal Register with information relating to this decision within 90 days.

This section requires the Secretary to maintain benefits for veterans and survivors in receipt of compensation when the Secretary removes a presumption of service-connection for which the award of benefits was established.

Section 202(b) provides conforming amendments which require the Secretary to ensure any determination made on or after the date of enactment of this Act regarding a presumption of service-connection is made pursuant to the procedures outlined in this section.

Section 203: Reevaluation of claims for compensation involving presumptions of service-connection

This section requires that when a regulation or Federal court decision establishes or modifies a presumption of service-connection, the Secretary must identify all claims for compensation that were previously received and denied. The Secretary must conduct outreach to this group of individuals and if a claim is received from this group and then granted, establish an effective date as if the new presumption was in effect at the time of the prior claim.

This section also requires the Secretary to provide public notice of the ability of veterans to reapply for benefits when applicable.

TITLE III—IMPROVING THE ESTABLISHMENT OF SERVICE CONNECTION PROCESS FOR TOXIC EXPOSED VETERANS

Section 301: Short title

This title may be cited as the "Veterans Burn Pits Exposure Recognition Act".

Section 302: Presumptions of toxic exposure

This section directs the Secretary to consider any entry in the Individual Longitudinal Exposure Record (ILER) that qualifies as a toxic exposure risk activity as a presumption of exposure for a claim for service-connection. If the ILER record does not contain the necessary information, the VA should consider the totality of the circumstances of the veteran's service before making a decision.

This section establishes a presumption of exposure to a list of substances, chemicals and hazards such as particulate matter, volatile organic compounds and dioxins, for veterans who served in certain locations. It also allows the Secretary to add or remove from the list of substances in collaboration with DoD.

Section 303: Medical nexus examinations for toxic exposure risk activities

This section requires VA provide medical examinations and medical opinions for any veteran who submits a claim for a service-connected disability relating to toxic exposure with evidence of a disability and participation in a toxic exposure risk activity. An examination with an opinion would be sufficient or, if necessary, a separate examination and medical opinion.

TITLE IV—PRESUMPTIONS OF SERVICE CONNECTION

Section 401: Treatment of veterans who participated in the cleanup of Enewetak Atoll as radiation-exposed veterans for purposes of presumption of service-connection of certain disabilities by Department of Veterans Affairs

This section may be cited as the "Mark Takai Atomic Veterans Healthcare Parity Act".

This section designates veterans who participated in the radioactive cleanup of Enewetak Atoll from January 1977 to December 1980 as radiation-exposed veterans who are eligible for the presumption of service-connection for associated diseases.

Section 402: Treatment of veterans who participated in nuclear response near Palomares, Spain, as radiation-exposed veterans for purposes of presumption of service-connection of certain disabilities by Department of Veterans Affairs

This section may be cited as the "Palomares Veterans Act".

This section designates veterans who participated in the cleanup of the crashed nuclear weapon carrying B–52 off the coast of Palomares, Spain in the 1960s as radiation-exposed veterans who are eligible for the presumption of service-connection for associated diseases.

Section 403: Presumptions of service-connection for diseases associated with exposures to certain herbicide agents for veterans who served in certain locations

This section may be cited as the "Veterans Agent Orange Exposure Equity Act".

This section expands the locations for which a presumption of service-connection is warranted based on exposure to herbicides such as Agent Orange. The expanded list of locations includes veterans who meet the following criteria:

- Service in Thailand at any United States or Royal Thai base during the period beginning on January 9, 1962, and ending on June 30, 1976;
- Service in Laos during the period beginning on December 1, 1965, and ending on September 30, 1969;
- Service in Cambodia at Mimot or Krek, Kompon Cham Province during the period beginning on April 16, 1969, and ending on April 30, 1969; or
- Service in Guam or American Samoa, or in the territorial waters thereof, during the period beginning on January 9, 1962, and ending on July 31, 1980, or served on Johnston Atoll or on a ship that called at Johnston Atoll during the period beginning on January 1, 1972, and ending on September 30, 1977.

This section defines the term "Vietnam-era herbicide-exposed veteran" for purposes of healthcare eligibility.

Section 404: Addition of additional diseases associated with exposure to certain herbicide agents for which there is a presumption of service-connection for veterans who served in certain locations

This section may be cited as the "Fair Care for Vietnam Veterans Act".

This section adds hypertension and monoclonal gammopathy of undetermined significance (MGUS) to the list of presumptive disabilities associated with exposure to herbicide agents such as Agent Orange.

Section 405: Improving compensation for disabilities occurring in Persian Gulf War veterans

This section removes the end dates for Gulf War Illness disability eligibility and requires VA staff to enact a Disability Benefits Questionnaire (DBQ) specifically to ensure that Gulf War veterans are screened for Gulf War Illness with a mandated report to Congress on this implementation annually. It also modifies eligibility criteria

by allowing a covered illness to become manifest to any degree at any time after service.

Section 406: Presumption of service-connection for certain diseases associated with exposure to burn pits and other toxins

This section may be cited as the "Presumptive Benefits for War Fighters Exposed to Burn Pits and Other Toxins Act".

This section creates a presumption of service-connection for more than 20 illnesses for veterans exposed to airborne hazards and burn pits based on the location and dates of their service. The illnesses include respiratory conditions and 11 types of cancer. This includes respiratory cancers of any type such as lung cancer and reproductive cancers of any type such as breast cancer or ovarian cancer.

This section grants the Secretary authority to add to the list pursuant to regulations established under Title II of this bill.

TITLE V—RESEARCH MATTERS

Section 501: Coordination by Department of Veterans Affairs of toxic exposure research

This section designates VA as the official coordinating authority for military toxic exposure-related studies and research performed by the federal government. It requires the creation of a Toxic Exposure Research Strategic Plan to organize and sort toxic exposure-related research at different federal agencies.

This section requires the Secretary to submit an annual report to Congress on the implementation of the Toxic Exposure Research Strategic Plan.

Section 502: Data collection, analysis, and report on treatment of veterans for illnesses related to toxic exposure

This section requires the Secretary of VA to collect, compile, and coordinate medical data for veterans receiving health care to further identify potential links between illnesses, military history, and toxic exposure.

This section requires the Secretary to submit to the Committee on Veterans' Affairs in the Senate and House of Representatives an annual report outlining these efforts.

Section 503: Studies related to veterans who served in Southwest Asia and certain other locations

This section requires that VA performs a mortality study, an epidemiological study, and a toxicology study to assess the health trends of veterans who served in Southwest Asia during the War on Terror and report these findings back to Congress within 180 days.

Section 504: Study on health trends of post 9/11 veterans

This section requires an epidemiological study on the health trends of all Post 9/11 veterans and requires that a report on the study be sent to Congress not later than two years after enactment of the Act.

Section 505: Study on cancer rates among veterans

This section requires a study on the incidence of cancers among veterans and requires that a report on the study be sent to Congress not later than two years after enactment of the Act.

Section 506: Study on feasibility and advisability of furnishing hospital care and medical services to dependents of veterans who participated in toxic exposure risk activities

This section directs VA to conduct a study on the feasibility of providing Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) benefits to dependents of veterans for healthcare costs related to toxic exposures experienced on military bases and other DoD-maintained facilities.

This section defines "qualifying dependent" and requires that a report on the study be sent to Congress not later than two years after enactment of the Act.

TITLE VI—IMPROVEMENT OF RESOURCES AND TRAINING REGARDING TOXIC EXPOSED VETERANS

Section 601: Short title; Definitions

This title may be cited as the "Toxic Exposure in the American Military Act" or the "TEAM Act".

This section states the terms "active military, naval, or air service", "toxic exposure", and "toxic exposed veteran" have the meanings given those terms in section 101 of title 38, United States Code.

Section 602: Publication of list of resources of Department of Veterans Affairs for Toxic Exposure Veterans and outreach program for such veterans and caregivers and survivors of such veterans

This section requires VA to publish a list of the benefits and healthcare resources available to veterans and survivors related to toxic exposures on an annual basis.

This section requires the Secretary to develop, with input from the community, an informative outreach program for veterans concerning illness that may be related to toxic exposure and available benefits.

Section 603: Incorporation of toxic exposure questionnaire during primary care appointments

This section directs VA to incorporate a toxic exposure questionnaire during primary care appointments to improve understanding by the Department of toxic exposures of veterans while serving in the Armed Forces. The questions must be determined with input from medical professionals.

Section 604: Training for personnel of the Department of Veterans Affairs with respect to toxic exposure veterans

This section requires training on toxic exposure for healthcare personnel.

This section also requires improved standardized training for VA benefit personnel, such as claims processors and health care per-

sonnel conducting examinations, to assist in the accurate adjudication of toxic exposure claims.

This section requires VA conduct quarterly, randomized reviews of the quality of claims adjudication of claims relating to toxic exposure.

TITLE VII—REGISTRIES, RECORDS, AND OTHER MATTERS

Section 701: Registry of individuals exposed to per- and polyfluoroalkyl substances on military installations

This section requires the Secretary, within one year of enactment, create and maintain a registry of individual's who may have been exposed to per- and polyfluoroalkyl substances (PFAS).

This section requires the Secretary submit a report to Congress on the status of data collection and any recommendations on addressing the needs of veterans exposed to PFAS within 2 years with a follow-up report due in 5 years.

Section 702: Fort McClellan Health Registry

This section requires the VA to establish a Fort McClellan Health Registry and provide the option of a health examination and consultation to any veteran who was stationed at Fort McClellan during a specific timeframe. It also requires VA to do appropriate outreach to veterans listed in the registry about their options, new research, and the consequences of toxic substance exposure.

Section 703: Independent study on Individual Longitudinal Exposure Record

This section requires DoD to enter into a contract with an independent research entity to conduct a study on the ILER to assess the quality of location and exposure data and determine whether a member of the Armed Forces can be reasonably assured that any toxic exposure they experienced during service will be reflected in their records.

Section 704: Biannual report on Individual Longitudinal Exposure Record

This section requires DoD to review the ILER periodically to determine whether additional exposures should be added, based on geography, occupation, and timeframe of service. It also requires periodic reports to Congress.

Section 705: Correction by members of the Armed Forces of exposure records

Requires the Secretary of Defense and the Secretary of Veterans Affairs to allow for service members and veterans to correct their military records as they pertain to toxic exposures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate for H.R. 3967 provided by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

According to the Congressional Budget Office estimate, H.R. 3967 would increase direct spending by $281.5 billion and increase spending subject to appropriation by $146.8 billion over the 2022–2031 period. (We receive this from CBO—check the Floor Action folder for the report).

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 7, 2021.

Hon. MARK TAKANO,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3967, the Honoring our PACT Act of 2021.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Logan Smith.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

At a Glance

H.R. 3967, Honoring our PACT Act of 2021

As ordered reported by the House Committee on Veterans' Affairs on June 24, 2021

By Fiscal Year, Billions of Dollars	2022	2022-2026	2022-2031
Direct Spending (Outlays)	10.1	84.9	281.5
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	10.1	84.9	281.5
Spending Subject to Appropriation (Outlays)	1.6	38.4	146.8

Statutory pay-as-you-go procedures apply?	Yes	**Mandate Effects**	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	> $5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

The bill would

- Increase disability compensation and expand health care services for a larger group of veterans who were exposed to toxic substances or served in certain locations during their military service
- Increase the number of veterans without service-connected disabilities who can receive health care from the Department of Veterans Affairs
- Require several studies and reports on veterans' toxic exposures during military service

Estimated budgetary effects would mainly stem from

- Increased disability compensation and increased health care costs for certain veterans

- Operating costs and administrative costs for processing disability compensation claims and implementing the bill's other provisions

Areas of significant uncertainty include

- Estimating the number of veterans affected by the bill and the changes in their disability ratings
- Anticipating the number and prevalence of disabilities presumed to be connected to military service
- Estimating the number of veterans who would receive additional health care

Bill summary: H.R. 3967 would increase disability compensation and health care benefits administered by the Department of Veterans Affairs (VA) for veterans who have been exposed to toxic substances, materials, or environments during military service. In the future, veterans who developed conditions linked to toxic exposure also would receive those benefits. Survivors of veterans whose disabilities were caused by toxic exposure would receive additional compensation and access to health care under the bill. Veterans and survivors who had previously been denied compensation for certain conditions would receive retroactive payments. H.R. 3967 also would increase access to other VA benefits, including education assistance and home loan guarantees for some of those veterans and their dependents. Finally, the bill would require VA to conduct studies, prepare reports, and conduct outreach. In total, CBO estimates, enacting H.R. 3967 would increase direct spending by $282 billion and increase spending subject to appropriation by $147 billion over the 2022–2031 period.

Estimated Federal cost: The estimated budgetary effects of H.R. 3967 are shown in Table 1 (all tables are at the end of this estimate). The costs of the legislation fall within budget function 700 (veterans' benefits and services).

Basis of estimate: For this estimate, CBO assumes that the estimated amounts will be appropriated each year, that outlays will follow historical spending patterns for affected programs, and that H.R. 3967 will be enacted in fiscal year 2022. Most provisions would take effect upon enactment.

Direct spending: The bill would make several changes to VA's benefit programs that affect direct spending.

Disability Compensation. VA ordinarily compensates veterans who have disabilities or diseases that have been determined on the basis of military medical records and physical examinations to be connected to military service. Disabilities are rated by severity; higher ratings make veterans eligible to receive more compensation.

Under H.R. 3967, VA would be required to presume that veterans with certain medical conditions developed them as a result of exposure to toxic substances during military service. Some veterans who have disabilities and who served in locations specified in the bill also would receive disability compensation and access to the VA health care system. The bill also would require VA to reevaluate any previously denied claims for disability compensation whenever a new presumption is established. That requirement would apply to any presumption that a disability or condition is service-connected that would be established by the bill, and future presumptions established by VA.

CBO analyzed the bill's provisions to determine the types of conditions or disabilities that would be presumed to have been caused by military service. CBO used prevalence rates for those conditions obtained from sources such as the Centers for Disease Control and Prevention to estimate the number of veterans who would be likely to have those conditions. CBO used data on age ranges and periods of service to estimate both the percentage of veterans currently receiving compensation (who thus would be likely to receive increased compensation) and the percentage who would receive compensation for the first time under H.R. 3967. Using information from VA, CBO estimated how many potentially eligible veterans would apply for compensation and projected when veterans would begin to receive new or increased disability compensation. To estimate caseloads and benefit amounts that would arise from the requirement to reevaluate previously denied claims, CBO used information from VA on such denials, information on how long ago, on average, those claims were denied, and on the severity of the condition being established. Finally, CBO accounted for mortality among the affected group when estimating how many veterans would continue to receive compensation under the bill over the 2022–2031 period. CBO used the estimated number of veteran deaths to determine how many new survivors of deceased veterans would receive compensation under the bill.

According to CBO's baseline budget projections, 5.4 million veterans—or 30 percent of the nation's nearly 19 million veterans—will receive disability compensation in fiscal year 2022. CBO projects that number will rise, reaching 6.1 million in 2031. Using information from VA, the Department of Defense, and medical and scientific organizations, CBO estimates that about 100,000 additional veterans would begin receiving compensation in 2022 under the bill. By 2031, almost 2 million more veterans would receive disability compensation, relative to current law. That figure represents an increase of 32 percent over CBO's baseline projection for 2031.

Under the bill, veterans who currently have or will have service-connected disabilities would be determined to have additional disabilities and thus would receive additional compensation. CBO estimates that 200,000 veterans who already get disability compensation would receive increased amounts in 2022, and that 1.6 million would receive increased compensation by 2031. Some veterans who receive a new disability rating under one provision of H.R. 3967 may receive additional compensation under other provisions. Thus, the total number of veterans affected by the bill is less than the sum of veterans who would newly receive compensation and those who would receive additional compensation.

CBO estimates that under the bill about 17,000 additional survivors of totally disabled veterans or veterans who die from service-connected disabilities caused by toxic exposure would receive survivor compensation in 2022; the number of such survivors would increase to 110,000 by 2031.

CBO estimates that VA would pay retroactive benefits to 1.2 million veterans whose claims were denied, and to about 70,000 survivors of deceased veterans. CBO expects those payments to be made within five years of a new presumption's establishment.

Disability and survivor compensation is paid from mandatory appropriations; as a result, enacting H.R. 3967 would increase direct spending. In total, higher disability compensation would increase direct spending by $279.6 billion over the 2022–2031 period, CBO estimates (see Table 1).

Other Mandatory Benefits. Under current law, veterans who receive disability compensation also may be eligible for readjustment benefits from VA, including educational assistance, job training, and independent-living services for veterans who have service-connected disabilities that limit or prevent them from working. Education assistance benefits also are available to dependents of veterans who are permanently and totally disabled and to survivors of those who have died as a result of a service-connected disability. Additionally, eligible borrowers who obtain a VA-guaranteed home loan are exempted from paying fees for the guarantee if they have a service-connected disability or if they are the spouse of a veteran who dies as a result of such a disability. Using information from VA about trends for those programs and average costs for benefits, CBO estimates that those mandatory benefits under the bill would cost $1.8 billion over the 2022–2031 period.

Spending subject to appropriation: Implementing H.R. 3967 would increase spending for VA health care and for the operating costs of processing disability claims, training staff, conducting studies, and preparing reports. Spending for those activities is discretionary and would be subject to appropriation of the estimated amounts.

Health Care. Under current law, eligible veterans who enroll in VA's health care system are assigned to priority groups primarily on the basis of whether they have one or more service-connected disabilities and on the severity of those disabilities. Veterans without service-connected disabilities also can receive health care from VA, depending on their income and other benefits they receive. Assignment to a priority group affects access to health care and is used to determine out-of-pocket costs. Veterans with service-connected disabilities receive the highest priority for medical treatment. In general, VA's costs to provide care are higher for veterans in higher priority groups. Veterans in those priority groups pay less out of pocket—or pay nothing at all. Some also can receive additional benefits, such as transportation subsidies for medical appointments. Veterans in the highest priority groups are more likely than those in lower groups to enroll in and use VA health benefits and services.

The bill would provide health care benefits to veterans who were exposed to toxic substances during their service even if they do not have a service-connected disability as a result of that exposure. Some veterans would become newly eligible for care in the VA system, and others who will be eligible for care under current law would be moved to a higher priority group. Some veterans would be determined to have a service-connected disability that would place them in a higher priority group. CBO expects that veterans who became newly eligible or were moved into a higher priority group would receive more care from VA.

Using information from VA, CBO estimated the number of the affected veterans in two categories. The first consists of veterans who would newly enroll in the VA health care system; the other

group consists of veterans who enroll and receive health care from VA under current law. CBO made additional population adjustments over the 10-year period to those cohorts on the basis of such factors as Medicare eligibility, expected mortality, and changes in the projected demand for VA health care. On the basis of information from VA on average costs of care by priority group, CBO estimated the average costs of additional care and applied that to the affected populations. CBO expects that reliance on VA health care among veterans affected by H.R. 3967 would increase gradually and that the full cost of care would phase in over a period of several years.

Survivors of veterans with service-connected disabilities caused by toxic exposure are eligible to enroll in the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA), a health insurance plan. To determine the incremental cost for new CHAMPVA beneficiaries, CBO used mortality rates to estimate the number of deaths among veterans who would be determined to have service-connected disabilities under the bill.

CBO anticipates that under current law, almost 9 million of the nation's roughly 19 million veterans will be enrolled in VA's health care system in fiscal year 2022. H.R. 3967 would increase that number by about 1.4 million over the next 10 years because of new eligibility or placement in a higher priority group. By 2031, CBO estimates, the bill would increase the total number of veterans receiving VA health care by 15 percent.

CBO also estimates that some veterans who are enrolled or will enroll in the VA health care system under current law would be moved to a higher priority group under the bill. On the basis of data on participation rates in the VA health care system, CBO estimates that each year, on average, 740,000 of those veterans would be placed in a higher priority group and continue to receive additional care over 2022–2031 period. About 12,000 additional survivors of veterans with service-connected disabilities would use CHAMPVA benefits in 2022; that number would increase to about 79,000 new beneficiaries by 2031.

CBO estimates that total spending for VA health care would increase by $136.1 billion over the 2022–2031 period, assuming appropriation of the estimated amounts.

Operating Costs. CBO estimates that the department would require significant resources to implement the bill. VA would require additional staff and resources, including information technology resources, to process millions of claims for disability compensation. Other provisions of the bill would require VA to study veterans' toxic exposures, train staff, and produce reports. In total, satisfying those requirements would cost $10.8 billion over the 2022–2031 period, CBO estimates.

Components of the bill: CBO estimated the costs of H.R. 3967 in nine components. Some affect each of the four cost categories described above. Other components affect one or two of those categories. This estimate accounts for interactions among the bill's components.

TITLE I. EXPANSION OF HEALTH CARE FOR TOXIC EXPOSURE VETERANS

Title I would expand eligibility for VA health care to veterans who had service-connected environmental exposures to toxic sub-

stances, chemicals, or airborne hazards, or who participated in activities during their military service that carried a risk of exposure, regardless of whether they have a service-connected disability.

Veterans who participated in an activity or were in locations that result in an entry in the Individual Longitudinal Exposure Record would qualify under the bill as having been exposed. (That record is used by VA and the Department of Defense to track service members' potential environmental exposures to toxic substances.) The Secretary of Veterans Affairs also would have the authority to identify other qualifying exposures.

CBO expects that under title I, 50 percent of the veteran population not previously eligible for VA health care would become eligible; many of those veterans eventually would enroll in the VA health care system. CBO also expects that the bill would change eligibility for 50 percent of veterans who will be eligible under current law to enroll in a lower priority group (for veterans with high household income). Those veterans would become eligible for a higher priority group (and for free care or reduced copayments) for certain types of care.

Some veterans who would become newly eligible under title I would subsequently be placed in a higher priority group after receiving a new disability rating under title II, III, or IV. The health care costs for those veterans are accounted for under title I until the time they would be expected to receive the new rating. At that point, the higher costs for their care are accounted for in the estimate for the other title.

CBO estimates that under H.R. 3967, about 69,000 veterans would newly enroll in the VA health care system in 2022; by 2026, that number would increase to 896,000. By 2031, the size of the group would fall to 260,000 as some veterans qualify for health care under other provisions of the bill. Some of the decline arises from a projected 15 percent reduction projected in the number of living veterans over the next decade. On the basis of health care costs for current enrollees, CBO estimates that, on average, newly enrolled veterans would receive $7,400 in VA health care each year.

CBO estimates that in 2022, about 837,000 veterans who are enrolled or will enroll in VA health care under current law would be eligible for a higher priority group under title I of the bill. By 2031, that number would decline to 140,000 veterans as some veterans become eligible for a higher priority group because they receive a disability rating as a result of other provisions of the bill. Some of the decline is caused by the projected reduction in the number of living veterans. On average, those veterans would receive about $900 more in health care per year because their use of health care would increase and their copayments would be lower.

After accounting for the gradual enrollment of new beneficiaries and additional health care cost of current beneficiaries, CBO estimates that health care costs under title I would total $41.4 billion over the 2022–2031 period, (see Table 2). Such spending would be subject to appropriation.

TITLE II. TOXIC EXPOSURE PRESUMPTION PROCESS

Title II would establish a new process for determining whether a medical condition or disability is attributable to a veteran's serv-

ice-connected exposure to a toxic substance or activity. Under title II, a committee composed of members appointed by the Congress, including health experts and at least one representative from a veterans' service organization, would recommend that a board of experts study certain exposures to toxic substances to determine whether a link could be found to a medical condition or disability. The findings would be presented to VA, which could use the information to determine whether to presume that the disability is service-connected. VA would have 60 days from receiving a recommendation to make a determination. If the department determines that a presumption of service connection is warranted, it would have to issue final regulations to implement the decision within 180 days.

Similar processes have been used for other toxic exposures—notably for conditions associated with exposure to Agent Orange. CBO anticipates that under title II, VA would establish new presumptive exposures and conditions. After an initial review and time to implement the process and conduct the initial studies, CBO expects that starting in 2024, VA would establish a presumption of exposure for one condition a year.

Using the total prevalence rate of conditions associated with exposure to Agent Orange as a basis, CBO estimated a rate of 2 percent for each new condition and applied that rate to the total veteran population estimated to be living in each year, minus those already eligible for the presumption of exposure to Agent Orange. The result was an estimated number of veterans who could newly receive compensation or who would be eligible for payments in addition to amounts they will receive under current law. A new group of survivors also would receive payments under title II. CBO also expects that H.R. 3967's requirement that VA reevaluate previously-denied claims would apply to title II, and that some veterans and survivors would receive retroactive benefits related to each new condition added. In total, CBO estimates, enacting title II would increase direct spending by $126.9 billion over the 2022–2031 period and increase spending subject to appropriation by $40.0 billion over the same period (see Table 3).

Mandatory Spending. CBO estimates that the first presumption of service-connected exposure established in 2024 would result in about 17,000 additional veterans receiving compensation in that year. That number would rise in subsequent years as more veterans receive a disability rating from that presumption. New presumptions added in 2025 and later years would further increase the numbers of veterans who would newly receive disability compensation.

CBO estimates that by 2031, about 925,000 additional veterans would be receiving compensation as a result of additional presumptions added under title II. On average, those veterans would receive $14,100 per year over the 2024–2031 period. About 32,000 veterans who will receive compensation under current law would receive additional payments in 2024, and that by 2031 that number would increase to 810,000 veterans. On average, those veterans would receive an additional $11,900 per year. CBO further estimates that by 2031, an additional 50,000 survivors of veterans with service-connected disabilities would receive compensation of $20,000 per year, on average.

Finally, CBO estimates that about 605,000 veterans would receive retroactive payments of about $50,000, as a result of the requirement to reevaluation previously denied claims. Additionally, 43,000 survivors would receive retroactive payments averaging about $25,000. Most of those survivors who become eligible for compensation also would receive ongoing payments that would average $20,000 per year over the budget window.

All told, CBO estimates, compensation arising from the new process would increase direct spending by $126.2 billion over the 2022–2031 period. Of that amount, $36.7 billion would arise from the requirement to reevaluate previously denied claims.

Other mandatory VA benefits, such as education assistance and fee-exempt loan guarantees, would increase under title II. As more veterans receive compensation, more of them and their dependents would become eligible for those benefits. Other mandatory spending would total $0.7 billion over the 2022–2031 period.

Discretionary Spending. Because more veterans would receive disability ratings under H.R. 3967, some of those veterans and certain dependents would be assigned to the highest priority groups and thus become eligible to receive additional health care benefits at no charge or with very small copayments. They also could be eligible for transportation subsidies and for long-term care and dental care from VA.

CBO estimates that about 9,000 additional veterans would newly enroll in the VA health care system in 2024, and that by 2031, about 517,000 additional veterans would enroll as a result of new eligibility or assignment to a higher priority group for care. On the basis of health care costs for current enrollees, on average, VA health care for those veterans would cost $11,500 per year.

CBO estimates that in 2024, about 4,000 veterans who will be enrolled in the VA health care system under current law would be moved to a higher priority group. By 2031, that number would increase to 230,000 veterans. On average, those veterans would receive about $7,000 in additional care each year.

By 2031, an additional 36,000 survivors of disabled veterans would use CHAMPVA benefits, at a cost of $5,000 per year, on average, CBO estimates.

After accounting for the gradual enrollment of new beneficiaries and additional health care costs for current beneficiaries, CBO estimates that health care costs under title II would total $35.4 billion over the 2022–2031 period. VA also would need additional resources to implement the new presumption process. Using information from VA, CBO estimates that the operating costs for implementation and for processing disability claims would total $4.7 billion over the 2022–2031 period.

TITLE III. IMPROVING THE ESTABLISHMENT OF SERVICE CONNECTION PROCESS FOR TOXIC EXPOSED VETERANS

Title III would require VA to presume that veterans have had service-connected exposures if the Individual Longitudinal Exposure Record indicates evidence of an exposure, or if they served in a location or under an assignment that would make exposure likely. Veterans who served in certain locations also would be presumed to have been exposed to substances listed in the bill. CBO estimates that title III would increase direct spending by $46.3 bil-

lion over the 2022–2031 period and increase spending subject to appropriation by $21.9 billion over the same period (see Table 4).

Mandatory Spending. To estimate the number of veterans who would newly receive disability compensation under title III, CBO used information from VA, including information on the number of claims VA denied for service-connected disabilities associated with exposure to toxic substances.

CBO estimates that by 2031, 6 percent more veterans would receive compensation than under current law, and 4 percent more would have their disability ratings increased.

Another 19,000 veterans would receive compensation in 2022; that number would rise to 352,000 by 2031. Those veterans would receive, on average, $13,800 per year in compensation payments over the 2022–2031 period. In 2022, 8,000 veterans who will receive compensation under current law would receive additional compensation under title III. By 2031, that number would reach 255,000. On average, those veterans would receive $11,700 in additional compensation over the 2022–2031 period. By 2031, an additional 16,000 survivors of disabled veterans would receive annual compensation of $20,000, on average.

About 93,000 veterans would receive retroactive payments for previously denied claims averaging $50,000, and about 6,000 survivors would receive retroactive payments averaging $25,000. CBO expects that those retroactive payments would be made over the 2022–2026 period. Most of the survivors who get retroactive compensation also would receive ongoing payments that would average $20,000 per year over the budget window.

In total, CBO estimates, compensation payments would increase direct spending by $45.7 billion over the 2022–2031 period. Of that amount, $5.6 billion would arise from the requirement to reevaluate previously denied claims.

Spending for other mandatory VA benefits, such as education assistance and fee-exempt loan guarantees, also would increase under title III. As more veterans receive compensation, more of them and their dependents would become eligible for those benefits. CBO estimates that those other mandatory costs would total $0.6 billion over the 2022–2031 period.

Discretionary Spending. More veterans would receive disability ratings under H.R. 3967 and some of them would be assigned to the highest priority group. As a result, they would be eligible either for free health care or for reduced copayments and for additional benefits, including transportation subsidies and access to long-term care and dental care from VA. Some dependents also would be newly eligible for certain health care benefits.

CBO estimates that under title III, about 10,000 additional veterans would newly enroll in the VA health care system in 2022, and that by 2031, about 197,000 additional veterans would enroll as a result of new eligibility or assignment to a higher priority group. Using health care costs for current enrollees, those veterans would receive, on average, an estimated $13,500 in health care from VA each year.

CBO expects that in 2022, about 5,000 veterans who will be enrolled in the VA health care system under current law would be placed in a higher priority group under title III. By 2031, that

number would increase to 87,000 veterans. On average, those veterans would receive about $8,800 in additional care each year.

CBO estimates that by 2031, an additional 12,000 survivors of disabled veterans would use CHAMPVA benefits at a cost of $5,000, on average, per year.

After accounting for the gradual enrollment of new beneficiaries and additional health care costs for current beneficiaries, CBO estimates that health care costs under title III would total $20.6 billion over the 2022–2031 period.

VA would require additional resources to process disability claims under title III. Using information from VA, CBO estimates that those increased costs would total $1.3 billion over the 2022–2031 period.

TITLE IV. EXPANSION OF PRESUMPTIONS OF SERVICE CONNECTION FOR FORGOTTEN VETERANS

H.R. 3967 would establish presumptions of exposure for veterans who served in several locations listed in the bill.

Section 401. Enewetak Atoll. Section 401 would establish a presumption of exposure for service members who participated in the cleanup of nuclear materials at Enewetak Atoll in the Pacific Ocean, a location where the United States conducted nuclear tests. Veterans who served at Enewetak Atoll between 1977 and 1980 who later developed certain cancers would receive disability compensation under this section and would be eligible for additional VA health care. CBO estimates that under section 401, about 500 veterans and survivors of deceased veterans would receive compensation and about 300 would receive increased health care from VA. Using information from VA on previously denied claims, CBO estimates 14 veterans would receive retroactive payments. In total, section 401 would increase direct spending by $116 million and increase spending subject to appropriation by $34 million over the 2022–2031 period (see Table 5).

Section 402. Palomares. Section 402 would establish a presumption of service connection for veterans who participated in the cleanup of a nuclear incident in Palomares, Spain, between January 1966 and March 1967 following an incident in 1966, when several U.S. nuclear weapons were released after two planes collided. Service members who participated in the response and cleanup who later developed certain cancers would receive disability compensation under this section and become eligible for additional VA health care. CBO estimates that under section 402 about 150 veterans and survivors of deceased veterans would receive compensation and about 100 would receive increased health care from VA. Using information from VA on previously denied claims, CBO estimates three veterans would receive retroactive payments. In total, section 402 would increase direct spending by $29 million and increase spending subject to appropriation by $8 million over the 2022–2031 period (see Table 6).

Section 403. Agent Orange. Under current law, veterans who served in the Republic of Vietnam or its territorial seas between January 1962 and May 1975 are eligible for a presumption of exposure to the herbicide Agent Orange, which VA presumes caused several medical conditions and disabilities. Section 403 would include veterans who served in Thailand, Laos, Cambodia, Guam,

American Samoa, and Johnston Atoll during periods specified in the bill as service members who would be presumed to have been exposed to Agent Orange. CBO expects that those veterans would receive retroactive payments for previously denied Veterans who served in those locations also would be eligible for compensation for conditions added by section 404, as described below. Section 403 would expand eligibility for certain veterans for increased VA health care, regardless of whether the veteran had a condition associated with exposure to Agent Orange. CBO estimates that under section 403, about 50,000 veterans and survivors of deceased veterans would receive compensation and about 20,000 would receive increased health care from VA. Of those beneficiaries, 18,000 veterans and 2,000 survivors would receive payments for previously denied claims. In total, section 403 would increase direct spending by $6.9 billion and increase spending subject to appropriation by $2.8 billion over the 2022–2031 period (see Table 7).

Section 404. Hypertension. Section 404 would include exposure to Agent Orange as a presumptive cause of hypertension and of monoclonal gammopathy of an undetermined significance. Veterans who served in Vietnam or its territorial seas during the Vietnam War would be compensated if they have either condition. Using information from the Centers for Disease Control and Prevention concerning prevalence, CBO estimates that about 600,000 of the 1.6 million living veterans who served in Vietnam or its offshore waters who currently receive disability compensation have hypertension and would be eligible for increased compensation. However, CBO estimates that only about half of the veterans with hypertension would receive increased payments because not all diagnoses are considered severe enough to warrant additional compensation. Under section 404 those eligible beneficiaries would receive annual payments of $8,300, on average, over the 2022–2031 period.

CBO also estimates that about 51,000 veterans would newly receive disability compensation in 2022 under section 404; by 2031, that number would reach 464,000 veterans. The payments would depend on the severity of the diagnosis, but on average would total $2,500 per year. By 2031, an additional 26,000 survivors of disabled veterans would receive annual compensation of $20,000, on average.

Veterans of the Vietnam War are eligible for retroactive payments for conditions that are later determined to be related to exposure to Agent Orange. Using information from VA on previous denials of disability claims related to hypertension among that group, CBO estimates that VA would provide retroactive payments averaging $13,500 to about 229,000 veterans and would pay an average of $100,000 to about 13,000 survivors of deceased veterans.

In total, CBO estimates, section 404 would increase direct spending by $37.4 billion over the 2022–2031 period.

Some veterans who newly receive disability compensation also would receive more health care from VA. CBO estimates that about 21,000 additional veterans would newly enroll in the VA health care system in 2022, and by 2031, about 197,000 additional veterans would enroll as a result of new eligibility or assignment to a higher priority group for care. On average, those veterans would receive about $11,000 in additional care each year. In 2022, about

12,000 veterans who are enrolled or will enroll in the VA health care system under current law would be moved to a higher priority group. By 2031, that number would increase to 115,000 veterans. Those veterans would receive an average of $2,300 in additional health care each year. CBO also estimates that by 2031, an additional 19,000 survivors of disabled veterans would use CHAMPVA benefits at an annual cost of $5,000, on average.

After accounting for the gradual enrollment of new beneficiaries and additional health care costs for current beneficiaries, health care costs under section 404 would total $18.4 billion over the 2022–2031 period. Processing disability claims would cost $3.1 billion. In total, CBO estimates, section 404 would increase spending subject to appropriation by $21.5 billion over the 2022–2031 period (see Table 8).

Section 405. Persian Gulf War Veterans. Under current law, veterans who served in Southwest Asia are eligible for a presumption that certain conditions, including several infectious diseases, were caused by military service as long as their symptoms appear by December 31, 2026. Section 405 would eliminate that deadline. By doing so, the bill would increase the number of veterans receiving compensation, relative to current law. Further, under section 405, those conditions would be presumed to have been cause by military service for veterans who served in Afghanistan, Israel, Egypt, Turkey, Syria, and Jordan. CBO estimates that about 23,000 veterans and survivors of deceased veterans would receive compensation and about 9,000 would receive increased health care from VA. In total, section 405 would increase direct spending by about $750 million and increase spending subject to appropriation by $370 million over the 2022–2031 period (see Table 9).

Section 406. Burn Pits. Under section 406, veterans who served in Afghanistan, Iraq, and other locations during designated periods would be presumed to have been exposed to toxic substances emitted from the open-air combustion of waste in burn pits. The section would require VA to provide compensation to veterans who have any of 24 listed conditions.

On August 2, 2021, VA issued a regulation specifying that it assumes that asthma, sinusitis, and rhinitis are connected to exposure to burn pits among that group of veterans. As a result, under current law, veterans who served in one of those places and develop one or more of those conditions within 10 years of completing service will be eligible for a presumption that a condition is service-connected. CBO anticipates that other veterans with those three conditions that manifest more than 10 years after discharge would receive compensation under section 406.

Development of any of the other 21 conditions listed in section 406 would be presumed to be service related for eligible veterans. CBO estimates that by 2031, about 192,000 veterans would receive a new rating under the bill. Those veterans would receive an average payment of $15,500 per year. About 235,000 veterans would receive additional compensation averaging $14,000 per year, and 14,000 survivors of deceased veterans would receive compensation averaging $20,000 per year. Using information from VA on the number of veterans who served in eligible locations and whose disability claims for conditions listed in section 406 have been previously denied, CBO estimates about 268,000 veterans and about

5,500 survivors would receive retroactive payments at an average of $50,000 and $160,000, respectively. CBO expects that those retroactive payments would be made over the 2022–2024 period.

CBO estimates about 165,000 veterans and survivors of deceased veterans would receive increased health care from VA under section 406.

CBO also estimates that spending for other mandatory benefits such as education assistance and fee-exempt loan guarantees would increase. In total, section 406 would increase direct spending for compensation and other mandatory benefits by $63.1 billion, of which $15.7 billion would arise from the requirement to reevaluate previously denied claims. It also would increase spending subject to appropriation by $18.8 billion over the 2022–2031 period (see Table 10).

Uncertainty: Mandatory spending under H.R. 3967 will depend on the number of veterans who receive new or increased disability compensation. CBO's estimate is highly contingent on VA's implementation of the bill, particularly the new processes specified in title II.

For this estimate, CBO anticipates that one new service-connected condition would be added each year. Under a similar process implemented under the Agent Orange Act, VA did not add a new condition every year, but in some years it added more than one. Title II concerns exposure to any substance that is deemed toxic, whereas the Agent Orange process considered exposure only to specific herbicides. If more or fewer conditions are established under the bill than CBO anticipates, the number of affected veterans could be higher or lower than estimated by CBO.

Additionally, this estimate is sensitive to the prevalence of conditions that are presumed to be caused by military service. If common conditions such as hypertension are added, costs could be higher than CBO estimates. Alternatively, if only rare conditions are added under H.R. 3967, costs could be lower.

The estimated costs of title III also are subject to considerable uncertainty, particularly regarding how VA would evaluate entries in the Individual Longitudinal Exposure Record when determining whether a disability is connected to military service. It is difficult to anticipate how much weight VA will give to such entries in adjudicating disability claims. CBO estimates that by 2031, the presumption that certain veterans were exposed to toxic substances would increase the number receiving disability compensation by about 6 percent and that about 4 percent of veterans who will receive compensation under current law will see an increase in compensation.

CBO estimates that under current law almost 40 percent of veterans will receive disability compensation; under the bill, that proportion would increase to roughly half of all veterans. If the number rose by more than CBO estimates (such that more than 50 percent of veterans have service-connected disabilities identified as a result of the bill), costs could be higher than CBO estimates. Alternatively, if fewer than 600,000 veterans—according to CBO's estimate—are affected under title III, costs would be lower.

The number of veterans and survivors who receive payments for previously denied claims is also subject to uncertainty. CBO used information on previously denied claims for disabilities connected

to exposure to Agent Orange and to burn pits to estimate the number veterans who would receive retroactive payments for claims related to those exposures. CBO used similar rates and amounts to estimate the cost of reevaluting claims that would arise under other sections of the bill. If those factors are higher or lower than those estimated here, costs would differ.

Other factors, such as the amount of compensation veterans receive, also could differ from the amounts CBO estimates. Changes in those inputs also would affect costs but to a much smaller degree than would differences in the size of the affected population.

The health care costs under H.R. 3967 would depend largely on the number of veterans who would be newly eligible and assigned to a higher priority group as a result of the bill's definition of *toxic exposure*. CBO estimates that under the bill roughly 7 million veterans could be newly eligible for VA health care or could be moved to a higher priority group. CBO also estimates that 50 percent of those veterans would meet one of the broad criteria for eligibility under title I such as having an entry in the Individual Longitudinal Exposure Record. If a smaller percentage of veterans became eligible, costs would be lower. Conversely, if the percentage was larger, costs would increase.

Previous CBO estimate: On October 26, 2021, CBO transmitted a cost estimate for S. 3003, the Comprehensive and Overdue Support for Troops of War Act of 2021, as reported by the Senate Committee on Veterans' Affairs on October 19, 2021. CBO estimated that bill would increase direct spending by $225 billion over the 2022–2031 period, and increase spending subject to appropriation by $188 billion over the same period. Many provisions of that bill are similar or identical to provisions in H.R. 3967. However H.R. 3967 would require VA to reevaluate previously denied claims for compensation, which increases the costs for most sections of the bill compared to S. 3003. The estimated cost of title III in H.R. 3967 is lower than the cost of S. 3003 because the former bill does not require VA to give weight to lay statements about toxic exposure when evaluating disability claims. CBO also reduced discretionary costs for the estimate of title I in H.R. 3967 compared to S. 3003. CBO estimates that fewer veterans would become eligible for health care from VA under H.R. 3967 because the bill does not explicitly expand eligibility for health care benefits to veterans with exposure to open burn pits or to veterans who have been awarded certain service medals, whereas S. 3003 includes those additional provisions for eligibility.

After CBO completed its estimate of S. 3003, VA announced an extension of the period in which veterans who served in the Persian Gulf and have certain illnesses could apply for that presumption of service connection. The period was extended from December 31, 2021, to December 1, 2026. As a result of this rulemaking, CBO's estimate of Section 405 in S. 3003 would be reduced from a $1 billion increase in direct spending and an increase of $600 million in spending subject to appropriation, to an estimate of $284 million and $171 million, respectively.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net

changes in outlays that are subject to those pay-as-you-go procedures are shown in the direct spending section of Table 1.

Increase in Long-Term Deficits: CBO estimates that enacting the COST of War Act would increase on-budget deficits by more than $5 billion in each of the four consecutive 10-year periods beginning in 2032.

Mandates: None.

Estimate prepared by: Logan Smith (disability compensation), Etaf Khan (Veterans Administration health care), Paul B.A. Holland (other mandatory benefits).

Estimate reviewed by: David Newman, Chief, Defense, International Affairs, and Veterans' Affairs Cost Estimates Unit; Leo Lex, Deputy Director of Budget Analysis; Theresa Gullo, Director of Budget Analysis.

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 3967, HONORING OUR PACT ACT OF 2021

	By fiscal year, billions of dollars—											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022–2026	2022–2031
Increases in Direct Spending Outlays [a]												
Compensation	10.1	14.1	19.6	17.3	23.2	27.1	32.6	38.8	45.3	51.5	84.4	279.6
Other Mandatory Benefits	*	*	0.1	0.2	0.2	0.2	0.3	0.2	0.3	0.3	0.6	1.8
Total Direct Spending	10.1	14.2	19.7	17.5	23.4	27.3	32.8	39.0	45.6	51.8	84.9	281.5
Increases in Spending Subject to Appropriation												
Health Care:												
Estimated Authorization	0.8	3.2	6.5	10.2	14.2	15.9	17.9	20.7	23.9	27.5	34.9	140.7
Estimated Outlays	0.7	2.9	6.1	9.7	13.5	15.4	17.5	20.1	23.3	26.8	32.9	136.1
Operating Costs:												
Estimated Authorization	1.1	1.4	1.4	.8	1.0	1.0	1.0	1.1	1.1	1.1	5.7	11.0
Estimated Outlays	.9	1.3	1.4	.9	1.0	1.0	1.0	1.1	1.1	1.1	5.5	10.8
Total Discretionary Spending:												
Estimated Authorization	1.9	4.6	8.0	11.0	15.2	16.8	18.9	21.7	25.0	28.6	40.6	151.6
Estimated Outlays	1.6	4.2	7.5	10.6	14.5	16.4	18.5	21.2	24.4	27.9	38.4	146.8
Memorandum												
Cumulative Beneficiaries, Thousands of People												
Disability Compensation: [b]												
New Ratings	100	334	587	774	977	1,182	1,373	1,585	1,785	1,965	n.a.	n.a.
Increased Ratings	200	374	555	645	789	940	1,095	1,264	1,443	1,608	n.a.	n.a.
Survivors of Deceased Veterans	17	22	32	42	53	62	73	84	97	110	n.a.	n.a.
Health Care:												
New Enrollees	118	478	844	1,133	1,371	1,357	1,342	1,329	1,315	1,297	n.a.	n.a.
Current Enrollees	861	833	806	778	752	726	701	676	652	628	n.a.	n.a.
Survivors of Deceased Veterans	12	16	23	30	37	45	52	61	70	79	n.a.	n.a.

Components may not sum to totals because of rounding; n.a. = not applicable; * = between zero and $50 million.

[a] Budget authority equals outlays.

[b] The total number of affected veterans is smaller than the sum of veterans receiving new disability ratings and those receiving increased disability ratings.

TABLE 2.—TITLE I, EXPANSION OF HEALTH CARE FOR TOXIC EXPOSURE VETERANS

	By fiscal year, billions of dollars—											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022–2026	2022–2031
Increases in Spending Subject to Appropriation												
Health Care:												
Estimated Authorization	0.6	2.4	4.2	5.8	7.0	6.3	5.5	4.5	3.5	2.5	19.9	42.1
Estimated Outlays	0.5	2.1	3.9	5.5	6.8	6.3	5.5	4.6	3.6	2.6	18.8	41.4
Memorandum												
Cumulative Beneficiaries, Thousands of People												
Health Care:												
New Enrollee	69	319	566	764	896	771	647	513	383	260	n.a.	n.a.
Current Enrollee	837	751	661	587	510	433	360	282	209	140	n.a.	n.a.

Components may not sum to totals because of rounding; n.a. = not applicable; * = between zero and $50 million.

TABLE 3.—TITLE II, TOXIC EXPOSURE PRESUMPTION PROCESS

	By fiscal year, billions of dollars—											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022–2026	2022–2031
Increases in Direct Spending Outlays [a]												
Compensation	0	0	2.3	5.5	10.0	13.5	17.4	21.5	25.8	30.2	17.8	126.2
Other Mandatory Benefits	0	0	*	*	*	0.1	0.1	0.1	0.2	0.2	0.1	0.7
Total Direct Spending	0	0	2.3	5.5	10.0	13.6	17.5	21.7	26.0	30.3	17.9	126.9
Increases in Spending Subject to Appropriation												
Health Care:												
Estimated Authorization	0	0	0.1	0.4	1.0	2.3	4.2	6.7	9.6	12.8	1.5	37.2
Estimated Outlays	0	0	0.1	0.3	1.0	2.2	4.0	6.4	9.2	12.3	1.3	35.4
Operating Costs:												
Estimated Authorization	*	*	0.2	0.4	0.6	0.7	0.7	0.7	0.8	0.8	1.2	4.8
Estimated Outlays	*	*	0.1	0.3	0.6	0.6	0.7	0.7	0.8	0.8	1.0	4.7
Total Discretionary Spending:												
Estimated Authorization	*	*	0.2	0.7	1.7	3.0	5.0	7.5	10.4	13.6	2.6	42.0
Estimated Outlays	*	*	0.2	0.7	1.5	2.8	4.7	7.1	9.9	13.1	2.4	40.0
Memorandum												
Cumulative Beneficiaries, Thousands of People												
Disability Compensation: [b]												
New Ratings	0	0	17	76	184	323	474	629	779	925	n.a.	n.a.
Increased Ratings	0	0	32	98	210	326	444	564	686	810	n.a.	n.a.
Survivors of Deceased Veterans	0	0	5	11	17	23	29	36	43	50	n.a.	n.a.
Health Care:												
New Enrollees	0	0	9	41	101	177	262	349	434	517	n.a.	n.a.
Current Enrollees	0	0	4	19	46	80	118	156	194	230	n.a.	n.a.
Survivors of Deceased Veterans	0	0	4	8	12	16	21	26	31	36	n.a.	n.a.

Components may not sum to totals because of rounding; n.a. = not applicable; * = between zero and $50 million.

[a] Budget authority equals outlays.

[b] The total number of affected veterans is smaller than the sum of veterans receiving new disability ratings and those receiving increased disability ratings.

TABLE 4.—TITLE III, IMPROVING THE ESTABLISHMENT OF SERVICE CONNECTION PROCESS FOR TOXIC EXPOSED VETERANS

	By fiscal year, billions of dollars—											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022–2026	2022–2031
Increases in Direct Spending Outlays [a]												
Compensation	0.8	2.0	2.8	3.5	4.3	4.0	5.0	6.4	7.9	9.0	13.4	45.7
Other Mandatory Benefits	*	*	*	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.6
Total Direct Spending	0.8	2.0	2.8	3.5	4.4	4.1	5.1	6.5	8.0	9.1	13.6	46.3
Increases in Spending Subject to Appropriation												
Health Care:												
Estimated Authorization	0.1	0.2	0.6	1.0	1.5	2.1	2.7	3.5	4.4	5.4	3.4	21.5
Estimated Outlays	0.1	0.2	0.5	0.9	1.5	2.0	2.6	3.4	4.3	5.2	3.2	20.6
Operating Costs:												
Estimated Authorization	0.1	0.1	0.1	0.1	0.2	0.1	0.1	0.2	0.2	0.1	0.6	1.3
Estimated Outlays	*	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.2	0.1	0.5	1.3
Total Discretionary Spending:												
Estimated Authorization	0.1	0.4	0.7	1.1	1.7	2.2	2.8	3.7	4.6	5.5	4.0	22.8
Estimated Outlays	0.1	0.3	0.7	1.1	1.6	2.1	2.7	3.5	4.4	5.4	3.7	21.9
Memorandum												
Cumulative Beneficiaries, Thousands of People												
Disability Compensation: [b]												
New Ratings	19	57	96	112	149	185	220	273	319	352	n.a.	n.a.
Increased Ratings	8	26	45	60	84	108	135	174	222	255	n.a.	n.a.
Survivors of Deceased Veterans	1	2	4	6	8	9	11	12	14	16	n.a.	n.a.
Health Care:												
New Enrollees	10	31	53	61	81	101	121	151	178	197	n.a.	n.a.
Current Enrollees	5	14	24	28	37	46	55	68	79	87	n.a.	n.a.
Survivors of Deceased Veterans	**	2	3	4	6	7	8	9	10	12	n.a.	n.a.

Components may not sum to totals because of rounding; n.a. = not applicable; * = between zero and $50 million; ** = fewer than 500 beneficiaries.
[a] Budget authority equals outlays.
[b] The total number of affected veterans is smaller than the sum of veterans receiving new disability ratings and those receiving increased disability ratings.

TABLE 5.—SECTION 401, ENEWETAK ATOLL

	By fiscal year, millions of dollars—											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022–2026	2022–2031
Increases in Direct Spending Outlays [a]												
Compensation	4	10	9	12	12	13	13	13	15	15	47	116
Increases in Spending Subject to Appropriation												
Health Care:												
Estimated Authorization	*	1	2	3	4	4	5	5	5	6	10	35
Estimated Outlays	*	1	2	3	4	4	5	5	5	5	10	34
Memorandum												
Cumulative Beneficiaries												
Disability Compensation: [b]												
New Ratings	53	165	230	239	248	254	260	264	266	267	n.a.	n.a.
Increased Ratings	18	55	77	80	83	85	87	88	89	89	n.a.	n.a.
Survivors of Deceased Veterans	28	89	125	132	138	145	151	157	163	168	n.a.	n.a.
Health Care:												
New Enrollees	28	90	125	131	136	140	143	147	148	149	n.a.	n.a.
Current Enrollees	13	40	57	59	61	63	65	65	66	66	n.a.	n.a.

TABLE 5.—SECTION 401, ENEWETAK ATOLL—Continued

	By fiscal year, millions of dollars—											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022–2026	2022–2031
Survivors of Deceased Veterans	20	64	90	95	100	104	109	113	117	121	n.a.	n.a.

Components may not sum to totals because of rounding; n.a. = not applicable; * between zero and $500,000.
[a] Budget authority equals outlays.
[b] The total number of affected veterans is smaller than the sum of veterans receiving new disability ratings and those receiving increased disability ratings.

TABLE 6.—SECTION 402, PALOMARES

	By fiscal year, millions of dollars—											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022–2026	2022–2031
Increases in Direct Spending Outlays [a]												
Compensation	1	2	3	3	3	3	3	3	4	4	12	29
Increases in Spending Subject to Appropriation												
Health Care:												
Estimated Authorization	*	*	1	1	1	1	1	1	1	1	3	8
Estimated Outlays	*	*	1	1	1	1	1	1	1	1	3	8
Memorandum												
Cumulative Beneficiaries												
Disability Compensation: [b]												
New Ratings	18	53	70	68	65	62	59	56	52	48	n.a.	n.a.
Increased Ratings	6	18	23	23	22	21	20	19	17	16	n.a.	n.a.
Survivors of Deceased Veterans	15	47	64	66	67	68	69	70	70	70	n.a.	n.a.
Health Care:												
New Enrollees	10	29	38	37	36	34	33	31	29	26	n.a.	n.a.
Current Enrollees	4	13	17	17	16	16	15	14	13	12	n.a.	n.a.
Survivors of Deceased Veterans	11	34	46	47	48	49	50	50	50	50	n.a.	n.a.

Components may not sum to totals because of rounding; n.a. = not applicable; * between zero and $500,000.
[a] Budget authority equals outlays.
[b] The total number of affected veterans is smaller than the sum of veterans receiving new disability ratings and those receiving increased disability ratings.

TABLE 7.—SECTION 403, AGENT ORANGE

	By fiscal year, billions of dollars—											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022–2026	2022–2031
Increases in Direct Spending Outlays [a]												
Compensation	0.6	0.7	1.0	0.6	0.6	0.7	0.7	0.7	0.7	0.7	3.5	6.9
Increases in Spending Subject to Appropriation												
Health Care:												
Estimated Authorization	*	*	0.1	0.2	0.3	0.4	0.4	0.4	0.4	0.4	0.7	2.7
Estimated Outlays	*	*	0.1	0.2	0.3	0.4	0.4	0.4	0.4	0.4	0.6	2.6
Operating Costs:												
Estimated Authorization	*	*	*	*	*	*	*	*	*	*	.2	.2
Estimated Outlays	*	*	*	*	*	*	*	*	*	*	.2	.2
Total Discretionary Spending:												
Estimated Authorization	0.1	0.1	0.1	0.2	0.3	0.4	0.4	0.4	0.4	0.4	0.8	2.8
Estimated Outlays	*	0.1	0.1	0.2	0.3	0.4	0.4	0.4	0.4	0.4	0.8	2.8

TABLE 7.—SECTION 403, AGENT ORANGE—Continued

	By fiscal year, billions of dollars—											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022–2026	2022–2031
Memorandum												
Cumulative Beneficiaries, Thousands of People												
Disability Compensation: [b]												
New Ratings	2	9	16	21	23	24	24	23	23	23	n.a.	n.a.
Increased Ratings	7	14	24	24	23	23	23	22	22	22	n.a.	n.a.
Survivors of Deceased Veterans	2	2	2	2	2	2	2	3	3	3	n.a.	n.a.
Health Care:												
New Enrollees	1	5	9	11	13	13	13	13	13	13	n.a.	n.a.
Current Enrollees	1	2	4	5	6	6	6	6	6	6	n.a.	n.a.
Survivors of Deceased Veterans	2	2	2	2	2	2	2	2	2	2	n.a.	n.a.

Components may not sum to totals because of rounding; n.a. = not applicable; * between zero and $50 million.

[a] Budget authority equals outlays.

[b] The total number of affected veterans is smaller than the sum of veterans receiving new disability ratings and those receiving increased disability ratings.

TABLE 8.—SECTION 404, HYPERTENSION

	By fiscal year, billions of dollars—											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022–2026	2022–2031
Increases in Direct Spending Outlays [a]												
Compensation	2.9	3.8	4.6	3.4	3.5	3.7	3.7	3.8	3.9	4.0	18.2	37.4
Increases in Spending Subject to Appropriation												
Health Care:												
Estimated Authorization	*	0.2	0.8	1.6	2.4	2.6	2.7	2.8	2.9	3.0	4.9	19.0
Estimated Outlays	*	0.2	0.7	1.4	2.3	2.6	2.7	2.8	2.9	3.0	4.6	18.4
Operating Costs:												
Estimated Authorization	0.8	0.8	0.7	0.2	0.2	0.1	0.1	0.1	0.1	0.1	2.7	3.1
Estimated Outlays	0.6	0.8	0.7	0.3	0.2	0.1	0.1	0.1	0.1	0.1	2.6	3.1
Total Discretionary Spending:												
Estimated Authorization	0.8	1.0	1.5	1.8	2.6	2.7	2.8	2.9	3.0	3.1	7.6	22.1
Estimated Outlays	0.6	0.9	1.4	1.8	2.5	2.7	2.8	2.8	2.9	3.0	7.2	21.5
Memorandum												
Cumulative Beneficiaries, Thousands of People												
Disability Compensation: [b]												
New Ratings	51	178	329	427	473	492	486	479	472	464	n.a.	n.a.
Increased Ratings	151	224	297	294	291	289	285	282	278	274	n.a.	n.a.
Survivors of Deceased Veterans	13	13	14	15	17	18	20	22	24	26	n.a.	n.a.
Health Care:												
New Enrollees	21	74	137	179	199	207	205	203	200	197	n.a.	n.a.
Current Enrollees	12	44	81	105	117	122	121	119	117	115	n.a.	n.a.
Survivors of Deceased Veterans	9	10	10	11	12	13	14	16	17	19	n.a.	n.a.

Components may not sum to totals because of rounding; n.a. = not applicable; * between zero and $50 million.

[a] Budget authority equals outlays.

[b] The total number of affected veterans is smaller than the sum of veterans receiving new disability ratings and those receiving increased disability ratings.

TABLE 9.—SECTION 405, PERSIAN GULF WAR VETERANS

	By fiscal year, millions of dollars—											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022–2026	2022–2031
Increases in Direct Spending Outlays [a]												
Compensation	33	40	47	30	38	61	86	112	139	167	188	753
Increases in Spending Subject to Appropriation												
Health Care:												
Estimated Authorization	*	2	6	13	22	34	50	67	86	106	43	386
Estimated Outlays	*	2	6	12	21	32	47	64	83	102	41	369
Memorandum												
Cumulative Beneficiaries, Thousands of People												
Disability Compensation: [b]												
New Ratings	1	2	2	2	3	4	6	7	9	10	n.a.	n.a.
Increased Ratings	1	1	2	3	3	5	7	9	11	13	n.a.	n.a.
Survivors of Deceased Veterans	**	**	**	**	**	**	**	**	**	**	n.a.	n.a.
Health Care:												
New Enrollees	**	1	1	1	1	2	3	4	5	6	n.a.	n.a.
Current Enrollees	**	**	**	1	1	1	1	2	2	3	n.a.	n.a.
Survivors of Deceased Veterans	**	**	**	**	**	**	**	**	**	**	n.a.	n.a.

Components may not sum to totals because of rounding; n.a. = not applicable; * = between zero and $50 million; ** = fewer than 500 beneficiaries.

[a] Budget authority equals outlays.

[b] The total number of affected veterans is smaller than the sum of veterans receiving new disability ratings and those receiving increased disability ratings.

TABLE 10.—SECTION 406, BURN PITS

	By fiscal year, billions of dollars—											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022–2026	2022–2031
Increases in Direct Spending Outlays [a]												
Compensation	5.7	7.6	8.8	4.3	4.7	5.2	5.7	6.3	6.8	7.4	31.2	62.6
Other Mandatory Benefits	*	*	0.1	0.1	0.1	0.1	*	*	*	*	0.3	0.5
Total Direct Spending	5.7	7.6	8.9	4.4	4.8	5.3	5.8	6.3	6.9	7.5	31.5	63.1
Increases in Spending Subject to Appropriation												
Health Care:												
Estimated Authorization	0.1	0.4	0.8	1.3	1.8	2.1	2.4	2.7	2.9	3.3	4.4	17.8
Estimated Outlays	0.1	0.3	0.7	1.2	1.7	2.1	2.3	2.6	2.9	3.2	4.2	17.2
Operating Costs:												
Estimated Authorization	0.2	0.4	0.4	0.1	0.1	0.1	0.1	0.1	0.1	0.1	1.2	1.6
Estimated Outlays	0.2	0.4	0.4	0.2	0.1	0.1	0.1	0.1	0.1	0.1	1.2	1.6
Total Discretionary Spending:												
Estimated Authorization	0.3	0.8	1.2	1.4	1.9	2.2	2.5	2.7	3.0	3.3	5.6	19.4
Estimated Outlays	0.3	0.7	1.1	1.4	1.8	2.2	2.4	2.7	3.0	3.3	5.4	18.8
Memorandum												
Cumulative Beneficiaries, Thousands of People												
Disability Compensation: [b]												
New Ratings	28	89	127	136	145	155	164	173	183	192	n.a.	n.a.
Increased Ratings	34	109	156	167	178	189	200	212	223	235	n.a.	n.a.
Survivors of Deceased Veterans	1	4	6	7	8	9	10	11	13	14	n.a.	n.a.
Health Care:												
New Enrollees	15	49	69	75	80	85	91	96	102	107	n.a.	n.a.
Current Enrollees	7	22	31	34	36	38	41	43	45	48	n.a.	n.a.
Survivors of Deceased Veterans	1	3	5	5	6	7	7	8	9	10	n.a.	n.a.

Components may not sum to totals because of rounding; n.a. = not applicable; * = between zero and $50 million; ** = fewer than 500 beneficiaries.

[a] Budget authority equals outlays.

[b] The total number of affected veterans is smaller than the sum of veterans receiving new disability ratings and those receiving increased disability ratings.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to Article I, section 8 of the United States Constitution, H.R. 3967 is authorized by Congress' power to "provide for the common Defense and general Welfare of the United States."

EARMARK STATEMENT

H.R. 3967 does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 3967, prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

An advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 3967.

PERFORMANCE GOALS

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are to increase access to quality and timely health care and benefits to veterans potentially and definitively exposed to toxic substances while serving in the uniformed services of the United States of America.

SUPPLEMENTAL, ADDITIONAL, DISSENTING, AND MINORITY VIEWS

MINORITY VIEWS

Introduction

Toxic-exposed veterans are suffering. They are looking to Congress, and our Committee in particular, for assistance. Republican Members are committed to addressing the needs of toxic-exposed veterans in a fair and fiscally sound manner. That said, the Democratic Majority's decision to report H.R. 3967 out of Committee without basic information necessary to evaluate the proposal was premature and unwise.

Reporting the bill was premature because the Committee lacks basic information from the Biden Administration that is necessary to evaluate its merits. Reporting the bill was unwise because it is giving veterans false hope. Preliminary cost estimates indicate that this bill may cost well over $1 trillion dollars. With no clear path to success in its current form, reporting the bill also gave veterans

an empty promise. We disagree with the premise that the Committee needs to pass an unworkable bill to "be on the same footing as the Senate" and because "we have momentum on our side." The Committee keeps the momentum going by demanding that the Biden Administration provide Congress information it has requested to move forward. The Committee should urge the Secretary to come off the sideline and meaningfully participate in discussions.

Given the Administration's refusal to do so voluntarily, Ranking Member Bost offered an amendment that would have replaced all provisions in the underlying bill with language requiring the Department of Veterans Affairs (VA) to submit a study containing information necessary to evaluate the policies set forth in H.R. 3967 within 90 days of enactment. Specifically, the study would have mandated VA to provide detailed information on the effect H.R. 3967 would have on the Department's benefits and healthcare system, such as potential increases in wait times for healthcare services and benefits adjudications; the anticipated increase in the number of compensation beneficiaries and VA healthcare users; cost estimates; and the resources, staffing, infrastructure, and information technology required to implement the bill. Regrettably, the Democratic majority opposed this amendment.

The Committee lacks basic information necessary to evaluate the proposals set forth in H.R. 3967. There have been no discussions on how the Committee will pay for the potentially $1 trillion dollar mandatory costs associated with this bill as required by budget rules or for the expected several billions of dollars in discretionary costs. For these reasons, as amplified below, Republicans opposed reporting the H.R. 3967.

Analysis

Under current law, VA does not have a framework for establishing presumptions of entitlement to service connection for conditions linked to toxic exposure that could entitle veterans to receive monthly disability compensation from VA. Additionally, veterans are not eligible to seek care from VA to treat any illnesses that may result from toxic exposures unless they are already eligible to enroll in the VA healthcare system under a different enrollment criteria. We have heard heartbreaking stories from veterans and their families about their challenges applying for VA benefits and care for conditions they believe are linked to toxic exposures. We believe the Department's healthcare and benefits system for toxic-exposed veterans needs improvement to ensure that we honor our nation's promise to the men and women who served our country in uniform.

We appreciate the Majority's efforts to establish a comprehensive disability decision-making framework within the Honoring our PACT Act. We also appreciate the Majority's intent to require VA to allow a larger population of toxic-exposed veterans to enroll in the VA healthcare system, without the need to establish service connection, in priority group 6. Moreover, as a general matter, we support additional outreach to veterans on VA services for toxic exposure; improved training for VA medical staff, claims processors, and disability examiners; and, further research into the health effects of military toxic exposures. This is why Ranking Member Bost introduced H.R. 2127, the Toxic Exposure in the American Military

(TEAM) Act, which would make similar changes to VA's services for toxic-exposed veterans.

Nevertheless, we have concerns about the Department's ability to implement H.R. 3967 without compromising services for other veterans. We believe the following five points are critical to evaluating whether H.R. 3967, or any bill with such far-reaching implications on VA and veterans, has a viable path to becoming law:

1. COST ESTIMATES AND IMPACT STATEMENTS FROM VA

Committee Members should understand the consequences of the bill on veterans, taxpayers, the Department, and the Federal government. Such information should include:

- VA's views on the bill, including whether it can be implemented, as written;
- The effect on VA's benefits, healthcare, and memorial affairs systems;
- Whether the bill helps toxic-exposed veterans;
- The staffing, infrastructure, information technology, funding, and other resources needed to implement the bill; and,
- How much the bill would cost the American people.

On May 5, 2021, the Committee held a hearing on 15 wide-ranging toxic exposure bills. VA was invited to provide testimony at that hearing but declined to take a position on any of the bills, opting instead to make general statements about toxic exposure.[1] On May 19, 2021, Ranking Member Bost sent a letter to Secretary McDonough asking VA to provide views and cost estimates for the bills that were included on the May 5, 2021 Full Committee Legislative Hearing, a majority of which are included in the Honoring our PACT Act.

Ranking Member Bost renewed his request during the June 8, 2021, Full Committee hearing on VA's fiscal year (FY) 2022 budget request, and Secretary McDonough committed to providing technical assistance and cost estimates. However, "technical assistance" from the Department is not a formal statement of the Administration's position. Therefore, VA's provision of technical assistance does not absolve the Department's responsibility to provide formal views.

2. RELIABLE ESTIMATES FROM THE CONGRESSIONAL BUDGET OFFICE (CBO) AND OFFICE OF MANAGEMENT AND BUDGET (OMB) AND, IF THEY DIFFER, THE OPPORTUNITY TO RECONCILE THEM

It is unreasonable to ask Committee Members to support legislation, particularly legislation of this magnitude, without a reliable estimate on the impact it would have on the budget. We do not have that for H.R. 3967.

On June 22, 2021, CBO provided an informal estimate stating that Title II of H.R. 3967 would make it "easier for veterans to receive disability compensation" and "even small changes result in significant increases in program costs." Further, CBO provided hypothetical, informal estimates that, if the bill increases the number of compensation recipients by 25 percent beginning in 2023, the bill would increase direct spending by about $300 billion over the

[1] https://docs.house.gov/meetings/VR/VR00/20210505/112559/HHRG-117-VR00-Wstate-BurkeR-20210505.pdf.

2022–2031 budget window. Similarly, if the bill increased the number of compensation recipients by 50 percent, the bill would increase direct spending by more than $1 trillion over the 2022–2031 budget window.

CBO also anticipated additional mandatory costs in the billions as a result of increased compensation for dependents and increases to the average rating of all disability recipients. According to CBO, these figures do not account for costs associated with retroactive benefits that would be awarded under Sec. 203.

Further, CBO estimated that discretionary spending would increase by hundreds of billions over the 2022–2031 budget window due to the expansion of VA healthcare beneficiaries; changes to VA's provision of healthcare, such as higher priority care and lower copayments; and resources needed to process compensation claims under this bill.

When pressed by the Ranking Member to clarify their informal estimate, CBO indicated that they needed information from the Administration in order to provide a more reliable accounting. Again, the Administration's refusal to provide Congress and others with information necessary to evaluate this proposal is a barrier to moving forward in a fiscally responsible manner.

Moreover, CBO and OMB may provide different cost estimates for this legislation. Therefore, CBO and OMB should both be afforded the opportunity to estimate the costs of enacting this legislation and reconcile any differences, which would provide Congress and the American people with a better understanding of how much this bill would cost and allow Congress to discuss how it will be paid for.

3. MEANINGFUL INPUT AND ENGAGEMENT FROM THE BIDEN ADMINISTRATION

Following the markup, Ranking Member Bost led a letter to President Biden asking him and Secretary McDonough to provide the information his amendment would have required. The Administration has a duty to provide input on legislation that could cost taxpayers $1 trillion—roughly ⅙ of his entire budget request for FY 2022—and potentially direct resources away from other critical programs at VA or elsewhere in the Federal government.

4. AN AGREEMENT WITH SENATE VETERANS AFFAIRS' COMMITTEE (SVAC) CHAIRMAN TESTER AND SVAC RANKING MEMBER MORAN ON HOW TO MOVE FORWARD

Improving the way VA serves toxic-exposed veterans is a mutual goal between the House and Senate Veterans' Affairs Committee. We need bipartisan, bicameral agreement on policy and offsets to cover the cost of the bill. Without this, any bill will fail. Toxic-exposed veterans deserve better than that.

5. OPEN, PUBLIC DIALOGUE ON THIS ISSUE AFTER RECEIVING ALL THE ABOVE INFORMATION WITH THE VA, VETERANS, VETERAN SERVICE ORGANIZATIONS (VSOS), AND OTHER STAKEHOLDERS

Comprehensive toxic exposure legislation must strike a fair balance between the needs of toxic-exposed veterans; taxpayers, some of whom are veterans; and VA, who will be required to implement

it. Veterans, taxpayers, and other stakeholders should be afforded an open forum, such as a roundtable or hearing, to comment on the House and Senate agreed upon toxic exposure legislation and provide recommendation for improvement.

Clearly, the Minority did not have the information and assurances necessary to responsibly vote on this bill during the June 24, 2021, markup. We believe the study authorized in the Ranking Member's amendment would have allowed Members on both sides of the aisle to determine the best path forward on this important issue. We urge the Majority to work with us to obtain this data so that we can proceed forward in a diligent, responsible manner.

MIKE BOST,
Ranking Member.
AUMUA AMATA COLEMAN RADEWAGEN,
Vice Ranking Member.
JACK BERGMAN.
CHIP ROY.
JIM BANKS.
GREGORY F. MURPHY.
TRACEY MANN.
NANCY MACE.
TROY E. NEHLS.
MARIANNETTE MILLER-MEEKS.
BARRY MOORE.
MADISON CAWTHORN.
MATTHEW M. ROSENDALE.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that H.R. 3967 does not relate to the terms and condition of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

STATEMENT ON DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 3967 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

RAMSEYER SUBMISSION

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * * * *

PART I—GENERAL PROVISIONS

* * * * * * *

CHAPTER 1—GENERAL

* * * * * * *

§ 101. Definitions

For the purposes of this title—

(1) The terms "Secretary" and "Department" mean the Secretary of Veterans Affairs and the Department of Veterans Affairs, respectively.

(2) The term "veteran" means a person who served in the active military, naval, air, or space service, and who was discharged or released therefrom under conditions other than dishonorable.

(3) The term "surviving spouse" means (except for purposes of chapter 19 of this title) a person of the opposite sex who was the spouse of a veteran at the time of the veteran's death, and who lived with the veteran continuously from the date of marriage to the date of the veteran's death (except where there was a separation which was due to the misconduct of, or procured by, the veteran without the fault of the spouse) and who has not remarried or (in cases not involving remarriage) has not since the death of the veteran, and after September 19, 1962, lived with another person and held himself or herself out openly to the public to be the spouse of such other person.

(4)(A) The term "child" means (except for purposes of chapter 19 of this title (other than with respect to a child who is an insurable dependent under subparagraph (B) or (C) of section 1965(10) of such chapter) and section 8502(b) of this title) a person who is unmarried and—

(i) who is under the age of eighteen years;

(ii) who, before attaining the age of eighteen years, became permanently incapable of self-support; or

(iii) who, after attaining the age of eighteen years and until completion of education or training (but not after attaining the age of twenty-three years), is pursuing a course of instruction at an approved educational institution;

and who is a legitimate child, a legally adopted child, a stepchild who is a member of a veteran's household or was a member at the time of the veteran's death, or an illegitimate child but, as to the alleged father, only if acknowledged in writing signed by him, or if he has been judicially ordered to contribute to the child's support or has been, before his death, judicially decreed to be the father of such child, or if he is otherwise shown by evidence satisfactory to the Secretary to be the father of such child. A person shall be deemed, as of the date of death of a veteran, to be the legally adopted child of such veteran if such person was at the time of the veteran's death living in the veteran's household and was legally adopted by the veteran's surviving spouse before August 26, 1961, or within two years after the veteran's death; however, this sen-

tence shall not apply if at the time of the veteran's death, such person was receiving regular contributions toward the person's support from some individual other than the veteran or the veteran's spouse, or from any public or private welfare organization which furnishes services or assistance for children. A person with respect to whom an interlocutory decree of adoption has been issued by an appropriate adoption authority shall be recognized thereafter as a legally adopted child, unless and until that decree is rescinded, if the child remains in the custody of the adopting parent or parents during the interlocutory period. A person who has been placed for adoption under an agreement entered into by the adopting parent or parents with any agency authorized under law to so act shall be recognized thereafter as a legally adopted child, unless and until such agreement is terminated, if the child remains in the custody of the adopting parent or parents during the period of placement for adoption under such agreement. A person described in clause (ii) of the first sentence of this subparagraph who was a member of a veteran's household at the time the person became 18 years of age and who is adopted by the veteran shall be recognized as a legally adopted child of the veteran regardless of the age of such person at the time of adoption.

(B) For the purposes of subparagraph (A) of this paragraph, in the case of an adoption under the laws of any jurisdiction other than a State (as defined in section 101(20) of this title and including the Commonwealth of the Northern Mariana Islands)—

(i) a person residing outside any of the States shall not be considered to be a legally adopted child of a veteran during the lifetime of such veteran (including for purposes of this subparagraph a Commonwealth Army veteran or new Philippine Scout, as defined in section 3566 of this title) unless such person—

(I) was less than eighteen years of age at the time of adoption;

(II) is receiving one-half or more of such person's annual support from such veteran;

(III) is not in the custody of such person's natural parent, unless such natural parent is such veteran's spouse; and

(IV) is residing with such veteran (or in the case of divorce following adoption, with the divorced spouse who is also an adoptive or natural parent) except for periods during which such person is residing apart from such veteran (or such divorced spouse) for purposes of full-time attendance at an educational institution or during which such person or such veteran (or such divorced spouse) is confined in a hospital, nursing home, other health-care facility, or other institution; and

(ii) a person shall not be considered to have been a legally adopted child of a veteran as of the date of such veteran's death and thereafter unless—

(I) at any time within the one-year period immediately preceding such veteran's death, such veteran was entitled to and was receiving a dependent's allowance or similar monetary benefit under this title for such person; or

(II) for a period of at least one year prior to such veteran's death, such person met the requirements of clause (i) of this subparagraph.

(5) The term "parent" means (except for purposes of chapter 19 of this title) a father, a mother, a father through adoption, a mother through adoption, or an individual who for a period of not less than one year stood in the relationship of a parent to a veteran at any time before the veteran's entry into active military, naval, air, or space service or if two persons stood in the relationship of a father or a mother for one year or more, the person who last stood in the relationship of father or mother before the veteran's last entry into active military, naval, air, or space service.

(6) The term "Spanish-American War" (A) means the period beginning on April 21, 1898, and ending on July 4, 1902, (B) includes the Philippine Insurrection and the Boxer Rebellion, and (C) in the case of a veteran who served with the United States military forces engaged in hostilities in the Moro Province, means the period beginning on April 21, 1898, and ending on July 15, 1903.

(7) The term "World War I" (A) means the period beginning on April 6, 1917, and ending on November 11, 1918, and (B) in the case of a veteran who served with the United States military forces in Russia, means the period beginning on April 6, 1917, and ending on April 1, 1920.

(8) The term "World War II" means (except for purposes of chapters 31 and 37 of this title) the period beginning on December 7, 1941, and ending on December 31, 1946.

(9) The term "Korean conflict" means the period beginning on June 27, 1950, and ending on January 31, 1955.

(10) The term "Armed Forces" means the United States Army, Navy, Marine Corps, Air Force, Space Force, and Coast Guard, including the reserve components thereof.

(11) The term "period of war" means the Spanish-American War, the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, the Persian Gulf War, and the period beginning on the date of any future declaration of war by the Congress and ending on the date prescribed by Presidential proclamation or concurrent resolution of the Congress.

(12) The term "veteran of any war" means any veteran who served in the active military, naval, air, or space service during a period of war.

(13) The term "compensation" means a monthly payment made by the Secretary to a veteran because of service-connected disability, or to a surviving spouse, child, or parent of a veteran because of the service-connected death of the veteran occurring before January 1, 1957.

(14) The term "dependency and indemnity compensation" means a monthly payment made by the Secretary to a surviving spouse, child, or parent (A) because of a service-connected death occurring after December 31, 1956, or (B) pursuant to the election of a surviving spouse, child, or parent, in the case of such a death occurring before January 1, 1957.

(15) The term "pension" means a monthly or other periodic payment made by the Secretary to a veteran because of service, age, or non-service-connected disability, or to a surviving spouse or child

of a veteran because of the non-service-connected death of the veteran.

(16) The term "service-connected" means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval, air, or space service.

(17) The term "non-service-connected" means, with respect to disability or death, that such disability was not incurred or aggravated, or that the death did not result from a disability incurred or aggravated, in line of duty in the active military, naval, air, or space service.

(18) The term "discharge or release" includes (A) retirement from the active military, naval, air, or space service, and (B) the satisfactory completion of the period of active military, naval, air, or space service for which a person was obligated at the time of entry into such service in the case of a person who, due to enlistment or reenlistment, was not awarded a discharge or release from such period of service at the time of such completion thereof and who, at such time, would otherwise have been eligible for the award of a discharge or release under conditions other than dishonorable.

(19) The term "State home" means a home established by a State (other than a possession) or Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)) for veterans disabled by age, disease, or otherwise who by reason of such disability are incapable of earning a living. Such term also includes such a home which furnishes nursing home care for veterans.

(20) The term "State" means each of the several States, Territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. For the purpose of section 2303 and chapters 34 and 35 of this title, such term also includes the Canal Zone.

(21) The term "active duty" means—

(A) full-time duty in the Armed Forces, other than active duty for training;

(B) full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to "full military benefits" or (iii) at any time, for the purposes of chapter 13 of this title;

(C) full-time duty as a commissioned officer in the commissioned officer corps of the National Oceanic and Atmospheric Administration or its predecessor organization the Coast and Geodetic Survey (i) on or after July 29, 1945, or (ii) before that date (I) while on transfer to one of the Armed Forces, or (II) while, in time of war or national emergency declared by the President, assigned to duty on a project for one of the Armed Forces in an area determined by the Secretary of Defense to be of immediate military hazard, or (III) in the Philippine Islands on December 7, 1941, and continuously in such islands thereafter, or (iii) at any time, for the purposes of chapter 13 of this title;

(D) service as a cadet at the United States Military, Air Force, or Coast Guard Academy, or as a midshipman at the United States Naval Academy; and

(E) authorized travel to or from such duty or service.

(22) The term "active duty for training" means—

(A) full-time duty in the Armed Forces performed by Reserves for training purposes;

(B) full-time duty for training purposes performed as a commissioned officer of the Reserve Corps [1] of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to "full military benefits", or (iii) at any time, for the purposes of chapter 13 of this title;

(C) in the case of members of the Army National Guard or Air National Guard of any State, full-time duty under section 316, 502, 503, 504, or 505 of title 32, or the prior corresponding provisions of law;

(D) duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for the purpose of training or a practice cruise under chapter 103 of title 10 for a period of not less than four weeks and which must be completed by the member before the member is commissioned; and

(E) authorized travel to or from such duty.

The term does not include duty performed as a temporary member of the Coast Guard Reserve.

(23) The term "inactive duty training" means—

(A) duty (other than full-time duty) prescribed for Reserves (including commissioned officers of the Reserve Corps [1] of the Public Health Service) by the Secretary concerned under section 206 of title 37 or any other provision of law;

(B) special additional duties authorized for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned; and

(C) training (other than active duty for training) by a member of, or applicant for membership (as defined in section 8140(g) of title 5) in, the Senior Reserve Officers' Training Corps prescribed under chapter 103 of title 10.

In the case of a member of the Army National Guard or Air National Guard of any State, such term means duty (other than full-time duty) under sections 316, 502, 503, 504, or 505 of title 32, or the prior corresponding provisions of law. Such term does not include (i) work or study performed in connection with correspondence courses, (ii) attendance at an educational institution in an inactive status, or (iii) duty performed as a temporary member of the Coast Guard Reserve.

(24) The term "active military, naval, air, or space service" includes—

(A) active duty;

(B) any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty; and

(C) any period of inactive duty training during which the individual concerned was disabled or died—

(i) from an injury incurred or aggravated in line of duty; or

(ii) from an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident occurring during such training.

(25) The term "Secretary concerned" means—

(A) the Secretary of the Army, with respect to matters concerning the Army;

(B) the Secretary of the Navy, with respect to matters concerning the Navy or the Marine Corps;

(C) the Secretary of the Air Force, with respect to matters concerning the Air Force or the Space Force;

(D) the Secretary of Homeland Security, with respect to matters concerning the Coast Guard;

(E) the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service; and

(F) the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration or its predecessor organization the Coast and Geodetic Survey.

(26) The term "Reserve" means a member of a reserve component of one of the Armed Forces.

(27) The term "reserve component" means, with respect to the Armed Forces—

(A) the Army Reserve;

(B) the Navy Reserve;

(C) the Marine Corps Reserve;

(D) the Air Force Reserve;

(E) the Space Force Reserve;

(F) the Coast Guard Reserve;

(G) the Army National Guard of the United States; and

(H) the Air National Guard of the United States.

(28) The term "nursing home care" means the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care, but who require nursing care and related medical services, if such nursing care and medical services are prescribed by, or are performed under the general direction of, persons duly licensed to provide such care. Such term includes services furnished in skilled nursing care facilities, in intermediate care facilities, and in combined facilities. It does not include domiciliary care.

(29) The term "Vietnam era" means the following:

(A) The period beginning on November 1, 1955, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period.

(B) The period beginning on August 5, 1964, and ending on May 7, 1975, in all other cases.

(30) The term "Mexican border period" means the period beginning on May 9, 1916, and ending on April 5, 1917, in the case of a veteran who during such period served in Mexico, on the borders thereof, or in the waters adjacent thereto.

(31) The term "spouse" means a person of the opposite sex who is a wife or husband.

(32) The term "former prisoner of war" means a person who, while serving in the active military, naval air, or space service, was forcibly detained or interned in line of duty—

(A) by an enemy government or its agents, or a hostile force, during a period of war; or

(B) by a foreign government or its agents, or a hostile force, under circumstances which the Secretary finds to have been comparable to the circumstances under which persons have generally been forcibly detained or interned by enemy governments during periods of war.

(33) The term "Persian Gulf War" means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.

(34) The term "agency of original jurisdiction" means the activity which entered the original determination with regard to a claim for benefits under laws administered by the Secretary.

(35) The term "relevant evidence" means evidence that tends to prove or disprove a matter in issue.

(36) The term "supplemental claim" means a claim for benefits under laws administered by the Secretary filed by a claimant who had previously filed a claim for the same or similar benefits on the same or similar basis.

(37) The term "toxic exposure" includes the following:

(A) A toxic exposure risk activity, as defined in section 1710(e)(4) of this title.

(B) An exposure to a substance, chemical, or airborne hazard specified in section 1119(b)(2).

(38) The term "toxic exposed veteran" means a veteran described in section 1710(e)(1) of this title.

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PART II—GENERAL BENEFITS

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CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

SUBCHAPTER I—GENERAL

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SUBCHAPTER II—WARTIME DISABILITY COMPENSATION

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SUBCHAPTER II—WARTIME DISABILITY COMPENSATION

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§ 1112. Presumptions relating to certain diseases and disabilities

(a) For the purposes of section 1110 of this title, and subject to the provisions of section 1113 of this title, in the case of any veteran who served for ninety days or more during a period of war—

(1) a chronic disease becoming manifest to a degree of 10 percent or more within one year from the date of separation from such service;

(2) a tropical disease, and the resultant disorders or disease originating because of therapy, administered in connection with such diseases, or as a preventative thereof, becoming manifest to a degree of 10 percent or more within one year from the date of separation from such service, or at a time when standard or accepted treatises indicate that the incubation period thereof commenced during such service;

(3) active tuberculous disease developing a 10 percent degree of disability or more within three years from the date of separation from such service;

(4) multiple sclerosis developing a 10 percent degree of disability or more within seven years from the date of separation from such service;

(5) Hansen's disease developing a 10 percent degree of disability or more within three years from the date of separation from such service;

shall be considered to have been incurred in or aggravated by such service, notwithstanding there is no record of evidence of such disease during the period of service.

(b)(1) For the purposes of section 1110 of this title and subject to the provisions of section 1113 of this title, in the case of a veteran who is a former prisoner of war—

(A) a disease specified in paragraph (2) which became manifest to a degree of 10 percent or more after active military, naval, air, or space service shall be considered to have been incurred in or aggravated by such service, notwithstanding that

there is no record of such disease during the period of service; and

(B) if the veteran was detained or interned as a prisoner of war for not less than thirty days, a disease specified in paragraph (3) which became manifest to a degree of 10 percent or more after active military, naval, air, or space service shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service.

(2) The diseases specified in this paragraph are the following:

(A) Psychosis.

(B) Any of the anxiety states.

(C) Dysthymic disorder (or depressive neurosis).

(D) Organic residuals of frostbite, if the Secretary determines that the veteran was detained or interned in climatic conditions consistent with the occurrence of frostbite.

(E) Post-traumatic osteoarthritis.

(F) Osteoporosis, if the Secretary determines that the veteran has post-traumatic stress disorder (PTSD).

(3) The diseases specified in this paragraph are the following:

(A) Avitaminosis.

(B) Beriberi (including beriberi heart disease).

(C) Chronic dysentery.

(D) Helminthiasis.

(E) Malnutrition (including optic atrophy associated with malnutrition).

(F) Pellagra.

(G) Any other nutritional deficiency.

(H) Cirrhosis of the liver.

(I) Peripheral neuropathy except where directly related to infectious causes.

(J) Irritable bowel syndrome.

(K) Peptic ulcer disease.

(L) Atherosclerotic heart disease or hypertensive vascular disease (including hypertensive heart disease) and their complications (including myocardial infarction, congestive heart failure and arrhythmia).

(M) Stroke and its complications.

(c)(1) For the purposes of section 1110 of this title, and subject to the provisions of section 1113 of this title, a disease specified in paragraph (2) of this subsection becoming manifest in a radiation-exposed veteran shall be considered to have been incurred in or aggravated during active military, naval, air, or space service, notwithstanding that there is no record of evidence of such disease during a period of such service.

(2) The diseases referred to in paragraph (1) of this subsection are the following:

(A) Leukemia (other than chronic lymphocytic leukemia).

(B) Cancer of the thyroid.

(C) Cancer of the breast.

(D) Cancer of the pharynx.

(E) Cancer of the esophagus.

(F) Cancer of the stomach.

(G) Cancer of the small intestine.

(H) Cancer of the pancreas.

(I) Multiple myeloma.
(J) Lymphomas (except Hodgkin's disease).
(K) Cancer of the bile ducts.
(L) Cancer of the gall bladder.
(M) Primary liver cancer (except if cirrhosis or hepatitis B is indicated).
(N) Cancer of the salivary gland.
(O) Cancer of the urinary tract.
(P) Bronchiolo-alveolar carcinoma.
(Q) Cancer of the bone.
(R) Cancer of the brain.
(S) Cancer of the colon.
(T) Cancer of the lung.
(U) Cancer of the ovary.

(3) For the purposes of this subsection:

(A) The term "radiation-exposed veteran" means (i) a veteran who, while serving on active duty, participated in a radiation-risk activity, or (ii) an individual who, while a member of a reserve component of the Armed Forces, participated in a radiation-risk activity during a period of active duty for training or inactive duty training.

(B) The term "radiation-risk activity" means any of the following:

(i) Onsite participation in a test involving the atmospheric detonation of a nuclear device (without regard to whether the nation conducting the test was the United States or another nation).

(ii) The occupation of Hiroshima or Nagasaki, Japan, by United States forces during the period beginning on August 6, 1945, and ending on July 1, 1946.

(iii) Internment as prisoner of war in Japan (or service on active duty in Japan immediately following such internment) during World War II which (as determined by the Secretary) resulted in an opportunity for exposure to ionizing radiation comparable to that of veterans described in clause (ii) of this subparagraph.

(iv) Service in a capacity which, if performed as an employee of the Department of Energy, would qualify the individual for inclusion as a member of the Special Exposure Cohort under section 3621(14) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384*l*(14)).

(v) Cleanup of Enewetak Atoll during the period beginning on January 1, 1977, and ending on December 31, 1980.

(vi) Onsite participation in the response effort following the collision of a United States Air Force B–52 bomber and refueling plane that caused the release of four thermonuclear weapons in the vicinity of Palomares, Spain, during the period beginning January 17, 1966, and ending March 31, 1967.

(4) A radiation-exposed veteran who receives a payment under the provisions of the Radiation Exposure Compensation Act of 1990 (42 U.S.C. 2210 note) shall not be deprived, by reason of the receipt of that payment, of receipt of compensation to which that veteran

is entitled by reason of paragraph (1), but there shall be deducted from payment of such compensation the amount of the payment under that Act.

§ 1113. Presumptions rebuttable

(a) Where there is affirmative evidence to the contrary, or evidence to establish that an intercurrent injury or disease which is a recognized cause of any of the diseases or disabilities within the purview of section 1112, 1116, 1117, [or 1118] *1118, or 1120* of this title, has been suffered between the date of separation from service and the onset of any such diseases or disabilities, or the disability is due to the veteran's own willful misconduct, service-connection pursuant to section 1112, 1116, [or 1118] *1118, or 1120* of this title, or payments of compensation pursuant to section 1117 of this title, will not be in order.

(b) Nothing in section 1112, 1116, 1117, [or 1118] *1118, or 1120* of this title, subsection (a) of this section, or section 5 of Public Law 98–542 (38 U.S.C. 1154 note) shall be construed to prevent the granting of service-connection for any disease or disorder otherwise shown by sound judgment to have been incurred in or aggravated by active military, naval, air, or space service.

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§ 1116. Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure for veterans who served in [the Republic of Vietnam] *certain locations*

(a)(1) For the purposes of section 1110 of this title, and subject to section 1113 of this title—

(A) a disease specified in paragraph (2) of this subsection becoming manifest as specified in that paragraph in a veteran who[, during active military, naval, or air service, served in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975] *performed covered service*; and

(B) each additional disease (if any) that (i) the Secretary determines in regulations prescribed under this section warrants a presumption of service-connection by reason of having positive association with exposure to an herbicide agent, and (ii) becomes manifest within the period (if any) prescribed in such regulations in a veteran who[, during active military, naval, or air service, served in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975] *performed covered service*, and while so serving was exposed to that herbicide agent,

shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such disease during the period of such service.

(2) The diseases referred to in paragraph (1)(A) of this subsection are the following:

(A) Non-Hodgkin's lymphoma becoming manifest to a degree of disability of 10 percent or more.

(B) Each soft-tissue sarcoma becoming manifest to a degree of disability of 10 percent or more other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma.

(C) Chloracne or another acneform disease consistent with chloracne becoming manifest to a degree of disability of 10 percent or more within one year after the last date on which the veteran [performed active military, naval, or air service in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975] *performed covered service*.

(D) Hodgkin's disease becoming manifest to a degree of disability of 10 percent or more.

(E) Porphyria cutanea tarda becoming manifest to a degree of disability of 10 percent or more within a year after the last date on which the veteran [performed active military, naval, or air service in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975] *performed covered service*.

(F) Respiratory cancers (cancer of the lung, bronchus, larynx, or trachea) becoming manifest to a degree of disability of 10 percent or more.

(G) Multiple myeloma becoming manifest to a degree of disability of 10 percent or more.

(H) Diabetes Mellitus (Type 2).

(I) Parkinsonism.

(J) Bladder cancer.

(K) Hypothyroidism.

(L) Hypertension.

(M) Monoclonal gammopathy of undetermined significance.

(3) For purposes of this section, the term "herbicide agent" means a chemical in an herbicide used in support of the United States and allied military operations in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975.

[(b)(1) Whenever the Secretary determines, on the basis of sound medical and scientific evidence, that a positive association exists between (A) the exposure of humans to an herbicide agent, and (B) the occurrence of a disease in humans, the Secretary shall prescribe regulations providing that a presumption of service connection is warranted for that disease for the purposes of this section.

[(2) In making determinations for the purpose of this subsection, the Secretary shall take into account (A) reports received by the Secretary from the National Academy of Sciences under section 3 of the Agent Orange Act of 1991, and (B) all other sound medical and scientific information and analyses available to the Secretary. In evaluating any study for the purpose of making such determinations, the Secretary shall take into consideration whether the results are statistically significant, are capable of replication, and withstand peer review.

[(3) An association between the occurrence of a disease in humans and exposure to an herbicide agent shall be considered to be positive for the purposes of this section if the credible evidence for the association is equal to or outweighs the credible evidence against the association.

[(c)(1)(A) Not later than 60 days after the date on which the Secretary receives a report from the National Academy of Sciences under section 3 of the Agent Orange Act of 1991, the Secretary

shall determine whether a presumption of service connection is warranted for each disease covered by the report. If the Secretary determines that such a presumption is warranted, the Secretary, not later than 60 days after making the determination, shall issue proposed regulations setting forth the Secretary's determination.

[(B) If the Secretary determines that a presumption of service connection is not warranted, the Secretary, not later than 60 days after making the determination, shall publish in the Federal Register a notice of that determination. The notice shall include an explanation of the scientific basis for that determination. If the disease already is included in regulations providing for a presumption of service connection, the Secretary, not later than 60 days after publication of the notice of a determination that the presumption is not warranted, shall issue proposed regulations removing the presumption for the disease.

[(2) Not later than 90 days after the date on which the Secretary issues any proposed regulations under this subsection, the Secretary shall issue final regulations. Such regulations shall be effective on the date of issuance.

[(d) Whenever a disease is removed from regulations prescribed under this section—

[(1) a veteran who was awarded compensation for such disease on the basis of the presumption provided in subsection (a) before the effective date of the removal shall continue to be entitled to receive compensation on that basis; and

[(2) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from such disease on the basis of such presumption shall continue to be entitled to receive dependency and indemnity compensation on such basis.

[(e) Subsections (b) through (d) shall cease to be effective on September 30, 2015.]

(b) The Secretary shall ensure that any determination made on or after the date of the enactment of the Honoring our Promise to Address Comprehensive Toxics Act of 2021 regarding a presumption of service connection based on exposure to an herbicide agent under this section is made pursuant to subchapter VII of this chapter, including with respect to assessing reports received by the Secretary from the National Academy of Sciences under section 3 of the Agent Orange Act of 1991 (Public Law 102–4).

[(f)] *(c)* For purposes of establishing service connection for a disability or death resulting from exposure to a herbicide agent, including a presumption of service-connection under this section, a veteran who[, during active military, naval, or air service, served in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975] *performed covered service*, shall be presumed to have been exposed during such service to an herbicide agent containing dioxin or 2,4-dichlorophenoxyacetic acid, and may be presumed to have been exposed during such service to any other chemical compound in an herbicide agent, unless there is affirmative evidence to establish that the veteran was not exposed to any such agent during that service.

(d) In this section, the term "covered service" means active military, naval, or air service—

(1) performed in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975;

(2) performed in Thailand at any United States or Royal Thai base during the period beginning on January 9, 1962, and ending on June 30, 1976, without regard to where on the base the veteran was located or what military job specialty the veteran performed;

(3) performed in Laos during the period beginning on December 1, 1965, and ending on September 30, 1969;

(4) performed in Cambodia at Mimot or Krek, Kampong Cham Province during the period beginning on April 16, 1969, and ending on April 30, 1969; or

(5) performed on Guam or American Samoa, or in the territorial waters thereof, during the period beginning on January 9, 1962, and ending on July 31, 1980, or served on Johnston Atoll or on a ship that called at Johnston Atoll during the period beginning on January 1, 1972, and ending on September 30, 1977.

* * * * * * *

§ 1116B. Presumption of herbicide exposure for certain veterans who served in Korea

(a) PRESUMPTION OF SERVICE-CONNECTION.—(1) For the purposes of section 1110 of this title, and subject to section 1113 of this title, a disease specified in subsection (b) that becomes manifest as specified in that subsection in a veteran described in paragraph (2) shall be considered to have been incurred or aggravated in the line of duty in the active military, naval, or air service, notwithstanding that there is no record of evidence of such disease during the period of such service.

(2) A veteran described in this paragraph is a veteran who, during active military, naval, or air service, served in or near the Korean Demilitarized Zone (DMZ), during the period beginning on September 1, 1967, and ending on August 31, 1971.

(b) DISEASES.—A disease specified in this subsection is—

(1) a disease specified in paragraph (2) of subsection (a) of section 1116 of this title that becomes manifest as specified in that paragraph; or

(2) any additional disease that—

(A) *pursuant to subchapter VII of this chapter,* the Secretary determines in regulations warrants a presumption of service-connection by reason of having positive association with exposure to an herbicide agent; and

(B) becomes manifest within any period prescribed in such regulations.

(c) HERBICIDE AGENT.—For purposes of this section, the term "herbicide agent" has the meaning given such term in section 1821(d) of this title.

§ 1117. Compensation for disabilities occurring in Persian Gulf War veterans

(a)(1) The Secretary may pay compensation under this subchapter to a Persian Gulf veteran with a qualifying chronic dis-

ability that [became manifest—] *became manifest to any degree at any time.*

[(A) during service on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War; or

[(B) to a degree of 10 percent or more during the presumptive period prescribed under subsection (b).]

(2) For purposes of this subsection, the term "qualifying chronic disability" means a chronic disability resulting from any of the following (or any combination of any of the following):

(A) An undiagnosed illness.

(B) A medically unexplained chronic multisymptom illness (such as chronic fatigue syndrome, fibromyalgia, and irritable bowel syndrome) that is defined by a cluster of signs or symptoms.

(C) Any diagnosed illness that the Secretary determines in regulations prescribed [under subsection (d)] *under subsection (c)* warrants a presumption of service-connection.

[(b) The Secretary shall prescribe by regulation the period of time following service in the Southwest Asia theater of operations during the Persian Gulf War that the Secretary determines is appropriate for presumption of service connection for purposes of this section. The Secretary's determination of such period of time shall be made following a review of any available credible medical or scientific evidence and the historical treatment afforded disabilities for which manifestation periods have been established and shall take into account other pertinent circumstances regarding the experiences of veterans of the Persian Gulf War.]

[(c)] *(b)*(1) Whenever the Secretary determines under section 1118(c) of this title that a presumption of service connection previously established under this section is no longer warranted—

(A) a veteran who was awarded compensation under this section on the basis of the presumption shall continue to be entitled to receive compensation under this section on that basis; and

(B) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from the disease on the basis of the presumption before that date shall continue to be entitled to receive dependency and indemnity compensation on that basis.

(2) This subsection shall cease to be effective on September 30, 2011.

[(d)] *(c)*(1) The Secretary shall prescribe regulations to carry out this section.

(2) Those regulations shall include the following:

(A) A description of the period and geographical area or areas of military service in connection with which compensation under this section may be paid.

(B) A description of the illnesses for which compensation under this section may be paid.

(C) A description of any relevant medical characteristic (such as a latency period) associated with each such illness.

(d) If a Persian Gulf veteran at a medical facility of the Department presents with any one symptom associated with Gulf War Illness, the Secretary shall ensure that health care personnel of the De-

partment use a disability benefits questionnaire, or successor questionnaire, to identify Gulf War Illness.

(e) A disability for which compensation under this subchapter is payable shall be considered to be service connected for purposes of all other laws of the United States.

(f) For purposes of this section, the term "Persian Gulf veteran" means a veteran who served on active duty in the Armed Forces in the Southwest Asia theater of operations*, Afghanistan, Israel, Egypt, Turkey, Syria, or Jordan,* during the Persian Gulf War.

(g) For purposes of this section, signs or symptoms that may be a manifestation of an undiagnosed illness or a chronic multisymptom illness include the following:

(1) Fatigue.

(2) Unexplained rashes or other dermatological signs or symptoms.

(3) Headache.

(4) Muscle pain.

(5) Joint pain.

(6) Neurological signs and symptoms.

(7) Neuropsychological signs or symptoms.

(8) Signs or symptoms involving the upper or lower respiratory system.

(9) Sleep disturbances.

(10) Gastrointestinal signs or symptoms.

(11) Cardiovascular signs or symptoms.

(12) Abnormal weight loss.

(13) Menstrual disorders.

(h)(1) If the Secretary determines with respect to a medical research project sponsored by the Department that it is necessary for the conduct of the project that Persian Gulf veterans in receipt of compensation under this section or section 1118 of this title participate in the project without the possibility of loss of service connection under either such section, the Secretary shall provide that service connection granted under either such section for disability of a veteran who participated in the research project may not be terminated. Except as provided in paragraph (2), notwithstanding any other provision of law any grant of service-connection protected under this subsection shall remain service-connected for purposes of all provisions of law under this title.

(2) Paragraph (1) does not apply in a case in which—

(A) the original award of compensation or service connection was based on fraud; or

(B) it is clearly shown from military records that the person concerned did not have the requisite service or character of discharge.

(3) The Secretary shall publish in the Federal Register a list of medical research projects sponsored by the Department for which service connection granted under this section or section 1118 of this title may not be terminated pursuant to paragraph (1).

(i)(1) The Secretary shall take such actions as may be necessary to ensure that health care personnel of the Department are appropriately trained to effectively carry out this section.

(2) Not less frequently than once each year, the Secretary shall submit to Congress a report on the actions taken by the Secretary to carry out paragraph (1).

§ 1118. Presumptions of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War

(a)(1) For purposes of section 1110 of this title, and subject to section 1113 of this title, each illness, if any, described in paragraph (2) shall be considered to have been incurred in or aggravated by service referred to in that paragraph, notwithstanding that there is no record of evidence of such illness during the period of such service.

(2) An illness referred to in paragraph (1) is any diagnosed or undiagnosed illness that—

(A) the Secretary determines in regulations prescribed under this section to warrant a presumption of service connection by reason of having a positive association with exposure to a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine known or presumed to be associated with service in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War; and

(B) becomes manifest within the period, if any, prescribed in such regulations in a veteran who served on active duty in that theater of operations during that war and by reason of such service was exposed to such agent, hazard, or medicine or vaccine.

(3) For purposes of this subsection, a veteran who served on active duty in the Southwest Asia theater of operations during the Persian Gulf War and has an illness described in paragraph (2) shall be presumed to have been exposed by reason of such service to the agent, hazard, or medicine or vaccine associated with the illness in the regulations prescribed under this section unless there is conclusive evidence to establish that the veteran was not exposed to the agent, hazard, or medicine or vaccine by reason of such service.

(4) For purposes of this section, signs or symptoms that may be a manifestation of an undiagnosed illness include the signs and symptoms listed in section 1117(g) of this title.

[(b)(1)(A) Whenever the Secretary makes a determination described in subparagraph (B), the Secretary shall prescribe regulations providing that a presumption of service connection is warranted for the illness covered by that determination for purposes of this section.

[(B) A determination referred to in subparagraph (A) is a determination based on sound medical and scientific evidence that a positive association exists between—

[(i) the exposure of humans or animals to a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine known or presumed to be associated with service in the Southwest Asia theater of operations during the Persian Gulf War; and

[(ii) the occurrence of a diagnosed or undiagnosed illness in humans or animals.

[(2)(A) In making determinations for purposes of paragraph (1), the Secretary shall take into account—

[(i) the reports submitted to the Secretary by the National Academy of Sciences under section 1603 of the Persian Gulf War Veterans Act of 1998; and

[(ii) all other sound medical and scientific information and analyses available to the Secretary.

[(B) In evaluating any report, information, or analysis for purposes of making such determinations, the Secretary shall take into consideration whether the results are statistically significant, are capable of replication, and withstand peer review.

[(3) An association between the occurrence of an illness in humans or animals and exposure to an agent, hazard, or medicine or vaccine shall be considered to be positive for purposes of this subsection if the credible evidence for the association is equal to or outweighs the credible evidence against the association.

[(c)(1) Not later than 60 days after the date on which the Secretary receives a report from the National Academy of Sciences under section 1603 of the Persian Gulf War Veterans Act of 1998, the Secretary shall determine whether or not a presumption of service connection is warranted for each illness, if any, covered by the report.

[(2) If the Secretary determines under this subsection that a presumption of service connection is warranted, the Secretary shall, not later than 60 days after making the determination, issue proposed regulations setting forth the Secretary's determination.

[(3)(A) If the Secretary determines under this subsection that a presumption of service connection is not warranted, the Secretary shall, not later than 60 days after making the determination, publish in the Federal Register a notice of the determination. The notice shall include an explanation of the scientific basis for the determination.

[(B) If an illness already presumed to be service connected under this section is subject to a determination under subparagraph (A), the Secretary shall, not later than 60 days after publication of the notice under that subparagraph, issue proposed regulations removing the presumption of service connection for the illness.

[(4) Not later than 90 days after the date on which the Secretary issues any proposed regulations under this subsection, the Secretary shall issue final regulations. Such regulations shall be effective on the date of issuance.

[(d) Whenever the presumption of service connection for an illness under this section is removed under subsection (c)—

[(1) a veteran who was awarded compensation for the illness on the basis of the presumption before the effective date of the removal of the presumption shall continue to be entitled to receive compensation on that basis; and

[(2) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from the illness on the basis of the presumption before that date shall continue to be entitled to receive dependency and indemnity compensation on that basis.

[(e) Subsections (b) through (d) shall cease to be effective on September 30, 2011.]

(b) The Secretary shall ensure that any determination made on or after the date of the enactment of the Honoring our Promise to Address Comprehensive Toxics Act of 2021 regarding a presumption of

service connection based on a toxic exposure under this section is made pursuant to subchapter VII of this chapter.

§ 1119. Presumptions of toxic exposure

(a) CONSIDERATION OF INDIVIDUAL LONGITUDINAL EXPOSURE RECORD REQUIRED.—If a veteran submits to the Secretary a claim for compensation for a service-connected disability under section 1110 of this title with evidence of a disability and a toxic exposure that occurred during active military, naval, or air service, the Secretary shall, in adjudicating such claim, consider—

(1) the Individual Longitudinal Exposure Record of the veteran; and

(2) if the Individual Longitudinal Exposure Record of the veteran does not indicate that the veteran was subject to a toxic exposure during active military, naval, or air service, the totality of the circumstances of the service of the veteran.

(b) PRESUMPTION OF SPECIFIC TOXIC EXPOSURE FOR MEMBERS WHO SERVED IN CERTAIN LOCATIONS.—(1) The Secretary shall, for purposes of section 1110 and chapter 17 of this title, presume that any covered veteran was exposed to the substances, chemicals, and hazards listed in paragraph (2) during the service of the covered veteran specified in subsection (c)(1), unless there is affirmative evidence to establish that the covered veteran was not exposed to any such substances, chemicals, or hazards in connection with such service.

(2)(A) Subject to subparagraph (B), the substances, chemicals, and airborne hazards listed in this paragraph are as follows:

(i) Particulate matter, including the following:

(I) PM-10.

(II) PM-2.5.

(ii) Polycyclic aromatic hydrocarbons (PAHs), including the following:

(I) Acenaphthene.

(II) Acenaphthylene.

(III) Anthracene.

(IV) Benzo(a)anthracene.

(V) Benzo(a)pyrene.

(VI) Benzo(b)fluoranthene.

(VII) Benzo(g,h,i)perylene.

(VIII) Benzo(k)fluoranthene.

(IX) Chrysene.

(X) Dibenz(a,h)anthracene.

(XI) Fluoranthene.

(XII) Fluorene.

(XIII) Indeno(1,2,3-cd)pyrene.

(XIV) Naphthalene.

(XV) Phenanthrene.

(XVI) Pyrene.

(iii) Volatile organic compounds (VOCs), including the following:

(I) Acetone.

(II) Acrolein.

(III) Benzene.

(IV) Carbon Disulfide.

(V) Chlorodifluoromethane.

(VI) Chloromethane.
(VII) Ethylbenzene.
(VIII) Hexachlorobutadiene.
(IX) Hexane.
(X) m/p-Xylene.
(XI) Methylene Chloride.
(XII) Pentane.
(XIII) Propylene.
(XIV) Styrene.
(XV) Toluene.

(iv) Toxic organic halogenated dioxins and furans (dioxins), including the following:

(I) 1,2,3,4,6,7,8 HPCDD.
(II) 1,2,3,4,6,7,8 HPCDF.
(III) 1,2,3,4,7,8,9 HPCDF.
(IV) 1,2,3,4,7,8 HXCDD.
(V) 1,2,3,6,7,8 HXCDD.
(VI) 1,2,3,7,8,9 HXCDD.
(VII) 1,2,3,4,7,8 HXCDF.
(VIII) 1,2,3,6,7,8 HXCDF.
(IX) 1,2,3,7,8,9 HXCDF.
(X) 1,2,3,7,8 PECDD.
(XI) 1,2,3,7,8 PECDF.
(XII) 2,3,4,6,7,8 HXCDF.
(XIII) 2,3,4,7,8 PECDF.
(XIV) 2,3,7,8 TCDD.
(XV) 2,3,7,8 TCDF.
(XVI) Octachlorodibenzodioxin.
(XVII) Octachlorodibenzofuran.

(v) Such other substances, chemicals, and airborne hazards as the Secretary, in collaboration with the Secretary of Defense, may determine appropriate.

(B)(i) The Secretary may add to or remove from the list under subparagraph (A) as the Secretary, in collaboration with the Secretary of Defense, determines appropriate.

(ii) Beginning not later than two years after the date of the enactment of the Honoring our Promise to Address Comprehensive Toxics Act of 2021, and not less frequently than once every two years thereafter, the Secretary shall submit to Congress a report identifying any additions or removals made pursuant to subparagraph (A) during the period covered by the report.

(c) DEFINITIONS.—In this section:

(1) The term "covered veteran" means any veteran who—

(A) on or after August 2, 1990, performed active military, naval, or air service while assigned to a duty station in—

(i) Bahrain;
(ii) Iraq;
(iii) Kuwait;
(iv) Oman;
(v) Qatar;
(vi) Saudi Arabia;
(vii) Somalia; or
(viii) United Arab Emirates; or

(B) on or after September 11, 2001, performed active military, naval, or air service while assigned to a duty station in—

(i) Afghanistan;
(ii) Djibouti;
(iii) Egypt;
(iv) Jordan;
(v) Lebanon;
(vi) Syria;
(vii) Yemen;
(viii) Uzbekistan;
(ix) the Philippines; or
(x) any other country determined relevant by the Secretary.

(2) The term "Individual Longitudinal Exposure Record" includes any pilot program or other program used by the Department of Veterans Affairs or the Department of Defense to track how members of the Armed Forces or veterans have been exposed to various occupational or environmental hazards.

(3) The term "toxic exposure risk activity" has the meaning given such term in section 1710(e)(4) of this title.

§ 1120. Presumption of service connection for certain diseases associated with exposure to burn pits and other toxins

(a) PRESUMPTION OF SERVICE CONNECTION.—For the purposes of section 1110 of this title, and subject to section 1113 of this title, a disease specified in subsection (b) becoming manifest in a covered veteran shall be considered to have been incurred in or aggravated during active military, naval, or air service, notwithstanding that there is no record of evidence of such disease during the period of such service.

(b) DISEASES SPECIFIED.—The diseases specified in this subsection are the following:

(1) Asthma that was diagnosed after service of the covered veteran as specified in subsection (c).

(2) The following types of cancer:
(A) Head cancer of any type.
(B) Neck cancer of any type.
(C) Respiratory cancer of any type.
(D) Gastrointestinal cancer of any type.
(E) Reproductive cancer of any type.
(F) Lymphoma cancer of any type.
(G) Lymphomatic cancer of any type.
(H) Kidney cancer.
(I) Brain cancer.
(J) Melanoma.
(K) Pancreatic cancer.

(3) Chronic bronchitis.
(4) Chronic obstructive pulmonary disease.
(5) Constrictive bronchiolitis or obliterative bronchiolitis.
(6) Emphysema.
(7) Granulomatous disease.
(8) Interstitial lung disease.
(9) Pleuritis.

(10) Pulmonary fibrosis.
(11) Sarcoidosis.
(12) Chronic sinusitis.
(13) Chronic rhinitis.
(14) Glioblastoma.
(15) Any other disease for which the Secretary determines, pursuant to regulations prescribed under subchapter VII that a presumption of service connection is warranted based on a positive association with a substance, chemical, or airborne hazard specified in section 1119(b)(2) of this title.

(c) COVERED VETERAN DEFINED.—In this section, the term "covered veteran" has the meaning given that term in section 1119(c) of this title.

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SUBCHAPTER VI—GENERAL COMPENSATION PROVISIONS

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§ 1167. Reevaluation of compensation determinations pursuant to changes in presumptions of service connection

(a) REEVALUATION.—Except as provided in subsection (b), whenever a law, including through a regulation or Federal court decision, establishes or modifies a presumption of service connection, the Secretary shall—

(1) identify all claims for compensation under this chapter that—

(A) were submitted to the Secretary;

(B) were evaluated and denied by the Secretary before the date on which such provision of law went into effect; and

(C) might have been evaluated differently had the establishment or modification been applicable to the claim;

(2) allow for the reevaluation of such claims at the election of the veteran; and

(3) with respect to claims approved pursuant to such reevaluation, provide compensation under this chapter effective as if the establishment or modification of the presumption of service connection had been in effect on the date of the submission of the original claim described in paragraph (1).

(b) OUTREACH.—With respect to each claim identified under subsection (a), the Secretary shall conduct outreach to inform relevant veterans that they may elect to have a claim be reevaluated in light of the establishment or modification of a presumption of service connection described in such subsection. Such outreach shall include the following:

(1) The Secretary shall publish on the internet website of the Department a notice that such veterans may elect to have a claim so reevaluated.

(2) The Secretary shall notify, in writing or by electronic means, veterans service organizations of the ability of such veterans to elect to have a claim so reevaluated.

(c) RELATION TO OTHER LAWS.—The Secretary shall carry out subsection (a) to the degree that doing so does not conflict with any other provision of law.

§ 1168. Medical nexus examinations for toxic exposure risk activities

(a) MEDICAL EXAMINATIONS AND MEDICAL OPINIONS.—(1) Except as provided in subsection (b), if a veteran submits to the Secretary a claim for compensation for a service-connected disability under section 1110 of this title with evidence of a disability and evidence of participation in a toxic exposure risk activity during active military, naval, or air service, and such evidence is not sufficient to establish a service connection for the disability, the Secretary shall—

(A) provide the veteran with a medical examination under section 5103A(d) of this title; and

(B) request a medical opinion as to whether it is at least as likely as not that there is a nexus between the disability and the toxic exposure risk activity.

(2) When providing the Secretary with a medical opinion requested under paragraph (1), the health care provider shall consider the total potential exposure through all applicable military deployments, and the synergistic, combined effect of all applicable toxic exposure risk activities.

(b) EXCEPTION.—Subsection (a) shall not apply if the Secretary determines there is no indication of an association between the disability claimed by the veteran and the toxic exposure risk activity for which the veteran submitted evidence.

(c) TOXIC EXPOSURE RISK ACTIVITY DEFINED.—In this section, the term "toxic exposure risk activity" has the meaning given such term in section 1710(e)(4) of this title.

SUBCHAPTER VII—RESEARCH AND DETERMINATIONS RELATING TO PRESUMPTIONS OF SERVICE CONNECTION BASED ON TOXIC EXPOSURE

§ 1171. Procedures to determine presumptions of service connection based on toxic exposure; definitions

(a) PROCEDURES.—The Secretary shall determine whether to establish, or to remove, presumptions of service connection based on toxic exposure pursuant to this subchapter, whereby—

(1) the Formal Advisory Committee on Toxic Exposure under section 1172 of this title—

(A) provides advice to the Secretary on toxic exposed veterans and cases in which veterans who, during active military, naval, or air service, may have experienced a toxic exposure or their dependents may have experienced a toxic exposure while the veterans were serving in the active military, naval, or air service;

(B) provides to the Secretary recommendations on corrections needed in the Individual Longitudinal Exposure Record to better reflect veterans and dependents described in subparagraph (A); and

(C) provides to the Secretary recommendations regarding which cases of possible toxic exposure described in subparagraph (A) the Science Review Board should review;

(2) the Science Review Board under section 1173 of this title—

(A) reviews cases of possible toxic exposure nominated by the Secretary;

(B) reviews research nominated by the Secretary;

(C) develops recommendations for new research; and

(D) determines the strength of evidence supporting positive association between toxic exposure and an illness;

(3) the Working Group under section 1174 of this title evaluates the conclusions of the Science Review Board and recommends to the Secretary whether to establish or modify a presumption of service connection; and

(4) the Secretary prescribes regulations under section 1175 of this title.

(b) ILLNESS DEFINED.—In this subchapter, the term "illness" includes a disease or other condition affecting the health of an individual.

(c) NONAPPLICATION OF SUNSET REQUIREMENTS.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to an entity established under this subchapter.

§ 1172. Formal Advisory Committee on Toxic Exposure

(a) ESTABLISHMENT.—(1) There is in the Veterans Health Administration of the Department the Formal Advisory Committee on Toxic Exposure (in this section referred to as the "Committee").

(2)(A) The Committee shall be composed of nine members appointed as follows:

(i) Five members shall be appointed by the Secretary.

(ii) One member shall be appointed by the Speaker of the House of Representatives.

(iii) One member shall be appointed by the minority leader of the House of Representatives.

(iv) One member shall be appointed by the majority leader of the Senate.

(v) One member shall be appointed by the minority leader of the Senate.

(B) The members appointed under subparagraph (A) shall meet the following criteria:

(i) Not more than three members shall be appointed from among individuals who are officials or employees of the Veterans Benefits Administration or the Veterans Health Administration.

(ii) At least one member shall be appointed from among individuals who are officials or employees of other departments or agencies of the Federal Government, including the Department of Defense and the Agency of Toxic Substances and Disease Registry of the Centers for Disease Control and Prevention.

(iii) At least one member shall be appointed from among individuals who are representatives of disabled veterans.

(iv) At least one member shall be appointed from among individuals in the private sector, State or local government, or academia, who are experts in toxicology and epidemiology.

(3) The Secretary shall determine the pay and allowances of the members of the Committee, including with respect to any additional pay and allowances for members who are officials or employees of the Federal Government.

(4) Each member of the Committee shall be appointed for a two-year term, and may serve not more than three successive terms.

(5) A vacancy in the Committee shall be filled in the manner in which the original appointment was made.

(b) CONSULTATION.—The Secretary may consult with, and seek the advice of, the Committee with respect to cases in which veterans who, during active military, naval, or air service, are suspected of having experienced a toxic exposure or dependents of veterans who may have experienced a toxic exposure during such service.

(c) ASSESSMENTS.—(1) The Committee shall assess cases of the toxic exposure of veterans and their dependents that occurred during active military, naval, or air service.

(2) The assessments under paragraph (1) shall cover suspected and known toxic exposures occurring during active military, naval, or air service, including by identifying and evaluating new and emerging toxic exposures that are not recognized under existing presumptions of service connection.

(3) The Committee may conduct an assessment under paragraph (1) in response to a person described in subsection (e)(2), by a majority vote of the members of the Committee.

(4) The Committee shall on a periodic basis assess the Individual Longitudinal Exposure Record to ensure the accuracy of data collected.

(d) RESEARCH RECOMMENDATIONS.—(1) Following an assessment of a case of the toxic exposure of veterans or their dependents that occurred during active military, naval, or air service under subsection (c), the Committee may develop a recommendation for the Secretary regarding whether there should be a review of the health effects related to the case of exposure conducted by the Science Review Board established under section 1173 of this title.

(2) Upon receipt of evidence suggesting that previous findings regarding the periods and locations of exposure covered by an existing presumption of service connection are no longer supported, the Committee may nominate such evidence for evaluation by the Working Group to modify the periods and locations.

(e) INPUT.—(1) Not less than quarterly, the Committee shall provide an opportunity for persons described in paragraph (2) to present written or oral comments to the Committee.

(2) The persons described in this paragraph are persons who may be affected by the actions of the Committee, including—

(A) veterans, the families of veterans, veterans service organizations and representatives, researchers, and other members of the general public; and

(B) departments and agencies of the Federal Government.

(f) REPORTS BY THE COMMITTEE.—Not less frequently than once each year, the Committee shall submit to the Secretary and the Committees on Veterans' Affairs of the Senate and the House of Representatives, and make publicly available, a report on—

(1) recommendations for research under subsection (d), if any; and

(2) recommendations for such legislative or administrative action as the Committee considers necessary for the Committee to be more effective in carrying out the requirements of this section.

(g) RESPONSES BY SECRETARY.—In response to each report submitted under subsection (f), the Secretary shall submit to the Secretary and the Committees on Veterans' Affairs of the Senate and

the House of Representatives, and make publicly available, a report on—

(1) the findings and opinions of the Secretary with respect to the report most recently submitted under subsection (f); and

(2) whether the Secretary intends to nominate to the Science Review Board the review recommended by the Committee in the report, and if not, an explanation of why, including citations and sources.

§ 1173. Science Review Board

(a) ESTABLISHMENT.—(1) There is in the Veterans Health Administration of the Department the Science Review Board (in this section referred to as the "Board").

(2)(A) The members of the Board shall be appointed by the Secretary, in consultation with the National Academies of Sciences, Engineering, and Medicine, from the general public from among individuals who are distinguished in the fields of medicine, biological sciences, or health administration.

(B) An individual may not concurrently serve on the Board and the Formal Advisory Committee on Toxic Exposure under section 1172 of this title.

(C) The Secretary shall determine the number, terms of service, and pay and allowances of members of the Board appointed by the Secretary.

(b) DUTIES.—(1) Upon receiving a nomination for the evaluation of research on the health effects of toxic exposures of members of the active military, naval, or air service or dependents of such members made by the Secretary, the Board shall—

(A) evaluate the likelihood that a positive association exists between an illness and a toxic exposure while serving in the active military, naval, or air service; and

(B) assess the toxic exposures and illnesses identified by the Secretary and determine whether the evidence supports a finding of a positive association between the toxic exposure and the illness.

(2) In carrying out paragraph (1)(B), the Board shall review all relevant data to determine the strength of evidence for a positive association based on the following four categories:

(A) The "sufficient" category, where the evidence is sufficient to conclude that a positive association exists.

(B) The "equipoise and above" category, where the evidence is sufficient to conclude that a positive association is at least as likely as not, but not sufficient to conclude that a positive association exists.

(C) The "below equipoise" category, where the evidence is not sufficient to conclude that a positive association is at least as likely as not, or is not sufficient to make a scientifically informed judgment.

(D) The "against" category, where the evidence suggests the lack of a positive association.

(3)(A) With respect to an evaluation conducted under this subsection, if the Board determines that the evidence for a positive association is categorized as either the sufficient or equipoise and above categories, the Board shall estimate the size of the positive associa-

tion effect among those exposed by calculating the relative risk and exposure prevalence.

(B)(i) The Board shall use the relative risk and exposure prevalence calculated under subparagraph (A) to estimate the service-attributable fraction of illness in a military setting to determine the probability of positive association for an individual.

(ii) In calculating the service-attributable fraction of illness, the Board shall consider the dose-response relationships.

(4)(A) With respect to an evaluation conducted under this subsection, if the Board determines that the evidence for a positive association is categorized as the below equipoise category, the Board shall develop a recommendation as to whether additional data gathering and research are necessary.

(B) If the Board recommends additional data gathering and research pursuant to subparagraph (A), the Secretary shall seek to enter into an agreement with the National Academies of Sciences, Engineering, and Medicine, or another nonprofit, nongovernmental entity that the Secretary determines has similar expertise and objectivity as the National Academies, to conduct such data gathering and research.

(c) REPORTS.—(1) For each evaluation conducted under subsection (b) where the Board determines that the evidence for positive association is categorized as either the sufficient or equipoise and above categories, the Board shall submit to the Secretary a report identifying the evidence found to reach such positive association determinations.

(2) In addition to submitting reports under paragraph (1), the Board shall submit to the Secretary reports, at such times and at such frequencies as the Board considers appropriate, containing such recommendations as the Board may have for additional or new research on matters relating to toxic exposures described in subsection (b)(1).

(d) RESPONSES FROM THE SECRETARY.—(1) In response to each report received by the Secretary under subsection (c)(1), the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives, and make publicly available, a report on the findings and opinions of the Secretary with respect to the report received under such subsection.

(2) Each report submitted under paragraph (1) of this subsection shall include, with respect to a report received under subsection (c)(1), the following:

(A) The findings and opinions of the Secretary with respect to the report received under subsection (c)(1).

(B) Whether the Secretary intends to nominate to the Working Group, established under section 1174(a) of this title, the work of the Science Review Board covered by the report received under subsection (c)(1) for further action, and if not, an explanation of why, including citations and sources.

§ 1174. Working group on presumptions of service connection

(a) ESTABLISHMENT.—The Secretary shall establish a working group (in this section referred to as the "Working Group") to—

(1) evaluate—

(A) the conclusions of the Science Review Board contained in each report submitted under section 1173(c)(1) of this title; and

(B) evidence nominated by the Formal Advisory Committee on Toxic Exposure under section 1172(d)(2) regarding the periods and locations of exposure covered by an existing presumption of service connection; and

(2) develop and submit to the Secretary a recommendation with respect to whether—

(A) to establish a presumption of service connection for the toxic exposure and illness covered by the report described in subparagraph (A) of paragraph (1); or

(B) to modify an existing presumption of service connection described in subparagraph (B) of such paragraph.

(b) RECOMMENDATIONS.—(1) In making a recommendation under subsection (a)(2), the Working Group shall—

(A) in cases where the evidence for a positive association is categorized as either the sufficient or equipoise and above categories, as described in subparagraph (A) or (B) of section 1173(b)(2) of this title, weigh such evidence heavily in favor of establishing a presumption of service connection;

(B) take into consideration such factors as may be determined appropriate by the Secretary; and

(C) if the Working Group determines that additional research, studies, or reports are appropriate before making a final recommendation with respect to establishing or modifying a presumption of service connection, submit to the Secretary a description of such appropriate additional research, studies, or reports.

(2) At the same time as when the Working Group submits to the Secretary a recommendation under paragraph (2) of subsection (a) with respect to an evaluation under paragraph (1) of such subsection, the Working Group shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a description of such recommendation.

(c) REPORT.—The Secretary shall periodically publish on the internet website of the Department a report identifying any factors for the Working Group to consider under subsection (b)(1)(B), as determined appropriate by the Secretary.

§ 1175. Regulations regarding presumptions of service connection based on toxic exposure

(a) ACTION UPON WORKING GROUP RECOMMENDATION.—Not later than 60 days after the date on which the Secretary receives a recommendation to establish or modify a presumption of service connection under section 1174(a)(2) of this title—

(1) if the Secretary determines that the presumption, or modification, is warranted, the Secretary shall issue proposed regulations setting forth the presumption or revise regulations to carry out such modification; or

(2) if the Secretary determines that the presumption, or modification, is not warranted, the Secretary shall publish in the Federal Register a notice of the determination, including the reasons supporting the determination.

(b) FINAL REGULATION.—Not later than 180 days after the date on which the Secretary issues any proposed regulations under subsection (a)(1), the Secretary shall issue final regulations. Such regulations shall be effective on the date of issuance.

(c) REMOVAL OF PRESUMPTION.—(1) The Secretary may issue regulations to remove an illness from a presumption of service connection previously established pursuant to a regulation issued under subsection (b).

(2) Whenever an illness is removed from regulations pursuant to paragraph (1), or the periods and locations of exposure covered by a presumption of service connection are modified under subsection (a)—

(A) a veteran who was awarded compensation for such illness on the basis of the presumption provided under such regulations before the effective date of the removal or modification shall continue to be entitled to receive compensation on that basis; and

(B) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from such illness on the basis of such presumption shall continue to be entitled to receive dependency and indemnity compensation on such basis.

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CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

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SUBCHAPTER II—HOSPITAL, NURSING HOME, OR DOMICILIARY CARE AND MEDICAL TREATMENT

§ 1710. Eligibility for hospital, nursing home, and domiciliary care

(a)(1) The Secretary (subject to paragraph (4)) shall furnish hospital care and medical services which the Secretary determines to be needed—

(A) to any veteran for a service-connected disability; and

(B) to any veteran who has a service-connected disability rated at 50 percent or more.

(2) The Secretary (subject to paragraph (4)) shall furnish hospital care and medical services, and may furnish nursing home care, which the Secretary determines to be needed to any veteran—

(A) who has a compensable service-connected disability rated less than 50 percent or, with respect to nursing home care during any period during which the provisions of section 1710A(a) of this title are in effect, a compensable service-connected disability rated less than 70 percent;

(B) whose discharge or release from active military, naval, air, or space service was for a disability that was incurred or aggravated in the line of duty;

(C) who is in receipt of, or who, but for a suspension pursuant to section 1151 of this title (or both a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's con-

tinuing eligibility for such care is provided for in the judgment or settlement provided for in such section;

(D) who is a former prisoner of war, who was awarded the medal of honor under section 7271, 8291, or 9271 of title 10 or section 491 of title 14, or who was awarded the Purple Heart;

(E) who is a veteran of the Mexican border period or of World War I;

(F) [who was exposed to a toxic substance, radiation, or other conditions, as provided in subsection (e)] *in accordance with subsection (e), who is a toxic exposed veteran*; or

(G) who is unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

(3) In the case of a veteran who is not described in paragraphs (1) and (2), the Secretary may, to the extent resources and facilities are available and subject to the provisions of subsections (f) and (g), furnish hospital care, medical services, and nursing home care which the Secretary determines to be needed.

(4) The requirement in paragraphs (1) and (2) that the Secretary furnish hospital care and medical services, the requirement in section 1710A(a) of this title that the Secretary provide nursing home care, the requirement in section 1710B of this title that the Secretary provide a program of extended care services, and the requirement in section 1745 of this title to provide nursing home care and prescription medicines to veterans with service-connected disabilities in State homes shall be effective in any fiscal year only to the extent and in the amount provided in advance in appropriations Acts for such purposes.

(5) During any period during which the provisions of section 1710A(a) of this title are not in effect, the Secretary may furnish nursing home care which the Secretary determines is needed to any veteran described in paragraph (1), with the priority for such care on the same basis as if provided under that paragraph.

(b)(1) The Secretary may furnish to a veteran described in paragraph (2) of this subsection such domiciliary care as the Secretary determines is needed for the purpose of the furnishing of medical services to the veteran.

(2) This subsection applies in the case of the following veterans:

(A) Any veteran whose annual income (as determined under section 1503 of this title) does not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension under section 1521(d) of this title.

(B) Any veteran who the Secretary determines has no adequate means of support.

(c) While any veteran is receiving hospital care or nursing home care in any Department facility, the Secretary may, within the limits of Department facilities, furnish medical services to correct or treat any non-service-connected disability of such veteran, in addition to treatment incident to the disability for which such veteran is hospitalized, if the veteran is willing, and the Secretary finds such services to be reasonably necessary to protect the health of such veteran. The Secretary may furnish dental services and treatment, and related dental appliances, under this subsection for a non-service-connected dental condition or disability of a veteran only (1) to the extent that the Secretary determines that the dental

facilities of the Department to be used to furnish such services, treatment, or appliances are not needed to furnish services, treatment, or appliances for dental conditions or disabilities described in section 1712(a) of this title, or (2) if (A) such non-service-connected dental condition or disability is associated with or aggravating a disability for which such veteran is receiving hospital care, or (B) a compelling medical reason or a dental emergency requires furnishing dental services, treatment, or appliances (excluding the furnishing of such services, treatment, or appliances of a routine nature) to such veteran during the period of hospitalization under this section.

(d) In no case may nursing home care be furnished in a hospital not under the direct jurisdiction of the Secretary except as provided in section 1720 of this title.

(e)(1)(A) A Vietnam-era herbicide-exposed veteran is eligible (subject to paragraph (2)) for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.

(B) A radiation-exposed veteran is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any disease suffered by the veteran that is—

(i) a disease listed in section 1112(c)(2) of this title; or

(ii) any other disease for which the Secretary, based on the advice of the Advisory Committee on Environmental Hazards, determines that there is credible evidence of a positive association between occurrence of the disease in humans and exposure to ionizing radiation.

(C) Subject to paragraph (2) of this subsection, a veteran who served on active duty between August 2, 1990, and November 11, 1998, in the Southwest Asia theater of operations during the Persian Gulf War is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such service.

(D) Subject to paragraphs (2) and (3), a veteran who served on active duty in a theater of combat operations (as determined by the Secretary in consultation with the Secretary of Defense) during a period of war after the Persian Gulf War, or in combat against a hostile force during a period of hostilities after November 11, 1998, is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any illness, notwithstanding that there is insufficient medical evidence to conclude that such condition is attributable to such service.

(E) Subject to paragraph (2), a veteran who participated in a test conducted by the Department of Defense Deseret Test Center as part of a program for chemical and biological warfare testing from 1962 through 1973 (including the program designated as "Project Shipboard Hazard and Defense (SHAD)" and related land-based tests) is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any illness, notwithstanding that there is insufficient medical evidence to conclude that such illness is attributable to such testing.

(F) Subject to paragraph (2), a veteran who served on active duty in the Armed Forces at Camp Lejeune, North Carolina, for not

fewer than 30 days during the period beginning on August 1, 1953, and ending on December 31, 1987, is eligible for hospital care and medical services under subsection (a)(2)(F) for any of the following illnesses or conditions, notwithstanding that there is insufficient medical evidence to conclude that such illnesses or conditions are attributable to such service:

(i) Esophageal cancer.
(ii) Lung cancer.
(iii) Breast cancer.
(iv) Bladder cancer.
(v) Kidney cancer.
(vi) Leukemia.
(vii) Multiple myeloma.
(viii) Myelodysplastic syndromes.
(ix) Renal toxicity.
(x) Hepatic steatosis.
(xi) Female infertility.
(xii) Miscarriage.
(xiii) Scleroderma.
(xiv) Neurobehavioral effects.
(xv) Non-Hodgkin's lymphoma.

(G) Subject to paragraph (2), a veteran who participated in a toxic exposure risk activity while serving on active duty, active duty for training, or inactive duty training is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any illness.

(H) Subject to paragraph (2), a covered veteran (as defined in section 1119(c) of this title) is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any illness.

(2)(A) In the case of a veteran described in paragraph (1)(A), hospital care, medical services, and nursing home care may not be provided under subsection (a)(2)(F) with respect to—

(i) a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than an exposure described in paragraph (4)(A)(ii); or

(ii) a disease for which the National Academy of Sciences, in a report issued in accordance with section 3 of the Agent Orange Act of 1991, has determined that there is limited or suggestive evidence of the lack of a positive association between occurrence of the disease in humans and exposure to a herbicide agent.

(B) In the case of a veteran described in subparagraph (C), (D), (E), **[**or (F)**]** *(F), (G), or (H)* of paragraph (1), hospital care, medical services, and nursing home care may not be provided under subsection (a)(2)(F) with respect to a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than the **[**service or testing**]** *service, testing, or activity* described in such subparagraph.

(3) In the case of care for a veteran described in paragraph (1)(D), hospital care, medical services, and nursing home care may be provided under or by virtue of subsection (a)(2)(F) only during the following periods:

(A) Except as provided by subparagraph (B), with respect to a veteran described in paragraph (1)(D) who is discharged or released from the active military, naval, air, or space service after January 27, 2003, the five-year period beginning on the date of such discharge or release.

(B) With respect to a veteran described in paragraph (1)(D) who is discharged or released from the active military, naval, air, or space service after January 1, 2009, and before January 1, 2011, but did not enroll to receive such hospital care, medical services, or nursing home care pursuant to such paragraph during the five-year period described in subparagraph (A), the one-year period beginning on the date of the enactment of the Clay Hunt Suicide Prevention for American Veterans Act.

(C) With respect to a veteran described in paragraph (1)(D) who is discharged or released from the active military, naval, air, or space service on or before January 27, 2003, and did not enroll in the patient enrollment system under section 1705 of this title on or before such date, the three-year period beginning on January 27, 2008.

(4) For purposes of this subsection—

[(A) The term "Vietnam-era herbicide-exposed veteran" means a veteran (i) who served on active duty in the Republic of Vietnam (including offshore of such Republic as described in section 1116A(d) of this title) during the period beginning on January 9, 1962, and ending on May 7, 1975, and (ii) who the Secretary finds may have been exposed during such service to dioxin or was exposed during such service to a toxic substance found in a herbicide or defoliant used for military purposes during such period.**]**

(A) The term "Vietnam-era herbicide-exposed veteran" means a veteran who—

(i) performed covered service, as defined in section 1116(d) of this title; or

(ii) the Secretary finds may have been exposed during such service to dioxin or was exposed during such service to a toxic substance found in a herbicide or defoliant used for military purposes during such period.

(B) The term "radiation-exposed veteran" has the meaning given that term in section 1112(c)(3) of this title.

(C) The term "toxic exposure risk activity" means any activity—

(i) that requires a corresponding entry in the Individual Longitudinal Exposure Record of the Department for the veteran who carried out the activity; or

(ii) that the Secretary determines qualifies for purposes of this subsection when taking into account what is reasonably prudent to protect the health of veterans.

(5) When the Secretary first provides care for veterans using the authority provided in paragraph (1)(D), the Secretary shall establish a system for collection and analysis of information on the general health status and health care utilization patterns of veterans receiving care under that paragraph. Not later than 18 months after first providing care under such authority, the Secretary shall submit to Congress a report on the experience under that author-

ity. The Secretary shall include in the report any recommendations of the Secretary for extension of that authority.

(f)(1) The Secretary may not furnish hospital care or nursing home care (except if such care constitutes hospice care) under this section to a veteran who is eligible for such care under subsection (a)(3) of this section unless the veteran agrees to pay to the United States the applicable amount determined under paragraph (2) or (4) of this subsection.

(2) A veteran who is furnished hospital care or nursing home care under this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such care shall be liable to the United States for an amount equal to—

(A) the lesser of—

(i) the cost of furnishing such care, as determined by the Secretary; or

(ii) the amount determined under paragraph (3) of this subsection; and

(B) before September 30, 2022, an amount equal to $10 for every day the veteran receives hospital care and $5 for every day the veteran receives nursing home care.

(3)(A) In the case of hospital care furnished during any 365-day period, the amount referred to in paragraph (2)(A)(ii) of this subsection is—

(i) the amount of the inpatient Medicare deductible, plus

(ii) one-half of such amount for each 90 days of care (or fraction thereof) after the first 90 days of such care during such 365-day period.

(B) In the case of nursing home care furnished during any 365-day period, the amount referred to in paragraph (2)(A)(ii) of this subsection is the amount of the inpatient Medicare deductible for each 90 days of such care (or fraction thereof) during such 365-day period.

(C)(i) Except as provided in clause (ii) of this subparagraph, in the case of a veteran who is admitted for nursing home care under this section after being furnished, during the preceding 365-day period, hospital care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of hospital care in connection with such payment, the veteran shall not incur any liability under paragraph (2) of this subsection with respect to such nursing home care until—

(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

(II) the end of the 365-day period applicable to the hospital care for which payment was made,

whichever occurs first.

(ii) In the case of a veteran who is admitted for nursing home care under this section after being furnished, during any 365-day period, hospital care for which the veteran has paid an amount under subparagraph (A)(ii) of this paragraph and who has not been furnished 90 days of hospital care in connection with such payment, the amount of the liability of the veteran under paragraph

(2) of this subsection with respect to the number of days of such nursing home care which, when added to the number of days of such hospital care, is 90 or less, is the difference between the inpatient Medicare deductible and the amount paid under such subparagraph until—

(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

(II) the end of the 365-day period applicable to the hospital care for which payment was made,

whichever occurs first.

(D) In the case of a veteran who is admitted for hospital care under this section after having been furnished, during the preceding 365-day period, nursing home care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of nursing home care in connection with such payment, the veteran shall not incur any liability under paragraph (2) of this subsection with respect to such hospital care until—

(i) the veteran has been furnished, beginning with the first day of such nursing home care furnished in connection with such payment, a total of 90 days of nursing home care and hospital care; or

(ii) the end of the 365-day period applicable to the nursing home care for which payment was made,

whichever occurs first.

(E) A veteran may not be required to make a payment under this subsection for hospital care or nursing home care furnished under this section during any 90-day period in which the veteran is furnished medical services under paragraph (3) of subsection (a) to the extent that such payment would cause the total amount paid by the veteran under this subsection for hospital care and nursing home care furnished during that period and under subsection (g) for medical services furnished during that period to exceed the amount of the inpatient Medicare deductible in effect on the first day of such period.

(F) A veteran may not be required to make a payment under this subsection or subsection (g) for any days of care in excess of 360 days of care during any 365-calendar-day period.

(4) In the case of a veteran covered by this subsection who is also described by section 1705(a)(7) of this title, the amount for which the veteran shall be liable to the United States for hospital care under this subsection shall be an amount equal to 20 percent of the total amount for which the veteran would otherwise be liable for such care under subparagraphs (2)(B) and (3)(A) but for this paragraph.

(5) For the purposes of this subsection, the term "inpatient Medicare deductible" means the amount of the inpatient hospital deductible in effect under section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)) on the first day of the 365-day period applicable under paragraph (3) of this subsection.

(g)(1) The Secretary may not furnish medical services (except if such care constitutes hospice care) under subsection (a) of this section (including home health services under section 1717 of this

title) to a veteran who is eligible for hospital care under this chapter by reason of subsection (a)(3) of this section unless the veteran agrees to pay to the United States in the case of each outpatient visit the applicable amount or amounts established by the Secretary by regulation.

(2) A veteran who is furnished medical services under subsection (a) of this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such services shall be liable to the United States, in the case of each visit in which such services are furnished to the veteran, for an amount which the Secretary shall establish by regulation.

(3) This subsection does not apply with respect to the following:

(A) Home health services under section 1717 of this title to the extent that such services are for improvements and structural alterations.

(B) Education on the use of opioid antagonists to reverse the effects of overdoses of specific medications or substances.

(h) Nothing in this section requires the Secretary to furnish care to a veteran to whom another agency of Federal, State, or local government has a duty under law to provide care in an institution of such government.

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PART V—BOARDS, ADMINISTRATIONS, AND SERVICES

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CHAPTER 73—VETERANS HEALTH ADMINISTRATION—ORGANIZATION AND FUNCTIONS

SUBCHAPTER I—ORGANIZATION

Sec.
7301. Functions of Veterans Health Administration: in general.

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SUBCHAPTER II—GENERAL AUTHORITY AND ADMINISTRATION

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7330D. Coordination of toxic exposure research.

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SUBCHAPTER II—GENERAL AUTHORITY AND ADMINISTRATION

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§ 7330D. Coordination of toxic exposure research

(a) IN GENERAL.—The Secretary shall coordinate all research activities carried out or funded by the executive branch of the Federal Government on the health consequences of toxic exposures experienced during service in the Armed Forces.

(b) STRATEGIC PLAN.—In carrying out subsection (a), the Secretary shall establish a strategic plan, to be known as the Toxic Exposure Research Strategic Plan, to ensure that the research activi-

ties specified in such subsection are collaborative, transparent, and highly coordinated.

(c) REPORT.—Not later than one year after the date of the enactment of the Honoring our Promise to Address Comprehensive Toxics Act of 2021, and annually thereafter, the Secretary shall submit to the Committee on Veterans' Affairs of the House of Representatives and the Senate a report on any research activities specified in subsection (a) carried out during the year covered by the report.

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